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ABSTRACT

Officially incorporated in 1965 to advocate for equal opportunity for all, especially students of Hispanic ancestry, and greater opportunities for Hispanic professionals at all levels of the teaching field, the Association of Mexican American Educators, Inc., held its 13th annual conference October 26-28, 1978. The five position papers included in the conference proceedings reflect the humanistic efforts of the Association. The papers are: "The California School Finance Reform Act (AB 65): Implications on Bilingual Education", by Joseph O. Garcia and Ruben W. Espinosa; "The Allan Bakke Decision: An Analysis of its Implications for Affirmative Action and Higher Education", by Manuel H. Guerra; "The Case for the Spanish speaking" by Ricardo A. Callejo; "The Future Needs of Chicano Studies Departments" by Joe Rodriquez; and "Teacher Training in Institutions of Higher Learning: Are the Trainers Prepared?" by Alba Moesser. (SB)

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PROCEEDINGS OF THE 13TH ANNUAL CONFERENCE

OF

THE ASSOCIATION OF MEXICAN-AMERICAN EDUCATORS, INC.

STATE OF CALIFORNIA

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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INTRODUCTION

The Association of Mexican American Educators, Inc. was officially incorporated as a non-profit, professional society in 1965. The purposes of the Association, as listed in its constitution, are too many to list here (14 in all). Those purposes may be summarized into two general groupings: (1) to advocate for equal educational opportunity for all students and especially for students of Hispanic ancestry as they face the rigors of a demanding education; and (2) to advocate for greater opportunities for Hispanic professionals in all levels of the teaching field to insure that their interests will be treated equally.

AMAE possesses thirteen years of experience of organizing and sponsoring educational conferences that appeal to educators and community persons alike. The 13th Annual Conference especially was successfuly in attracting some of the finest scholars, professors, teacher trainers and adminstrators interested in the welfare of the Hispanic student and of all students. The enclosed position papers, as you will see, reflect this humanistic effort.

Although the authors of the enclosed position papers are persons whose orientations are concommitant with those of the Association of Mexican American Educators, the position papers per se reflect the ideas of the writers and not necessarily those of AMAE.

The Association is deeply appreciative of the participation of the authors and of all the persons who helped make the 13th Annual Conference a true success.

Special thanks is rendered to Dr. Reynaldo P. Garay, 1978 AMAE President, who helped realize all the aspirations of the AMAE membership for educational equality, professional unity and intellectual pursuit.

THE CALIFORNIA SCHOOL FINANCE REFORM ACT (AB 65): IMPLICATIONS ON BILINGUAL EDUCATION

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June 1978

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Abstract

This study assesses the impact of the California School Finance Reform Act (AB 65) on bilingual education. This study found that prior to the enactment of AB 65 there were virtually no provisions for limited-and-non-English speaking (LES-NES) students and appropriations to implement such provisions in major school finance legislations. Legislative provisions for bilingual education were contained in two non-school finance acts, AB 2284 and AB 1329. In AB 65 there is approximately $246 million under two educational programs (School Improvement Plan and Educationally Disadvantaged Youth Program) for 1978-79 that may be utilized in providing educational services for LES/NES students. However, a sound monitoring and accountability system by the State Department of Education and Superintendent of Public Instruction must be implemented to assure that districts comply with the legislative provisions in meeting the needs of LES/NES students.

An Analysis of the Impact of the California School Finance Reform Act on Bilingual Education

Introduction

This study focuses primarily on the recently (1977) enacted California public school finance legislation (AB 65) and its impact on bilingual education. Final results of California bilingual education to date are discussed. Also presented is an outline of the major provisions of AB 65 and their implementing guidelines relative to bilingual education. Finally a need for monitoring and accountability of bilingual education legislation is proposed.

Prior to September 17, 1977 when Governor Brown signed AB 65 into law, State funds for bilingual education were appropriated through two bilingual education bills (AB 2284 and AB 1329). However, with the enactment of AB 65, State appropriation for bilingual education becomes part of the State general aid funding system for the support of public schools effective in 1979.

The foundation of legislative efforts in California to enact bilingual education programs began with the enactment of AB 2284 in 1972. The Legislature appropriated approximately $5 million to implement the new bilingual act with the expressed purpose of allowing California public schools the opportunity to establish bilingual education programs.[1]

In 1976 bilingual education, with the enactment of AB 1329 became more specific and demanding. Whereas in AB 2284 bilingual education was optional for districts to participate; in AB 1329 bilingual education was mandated in school districts where more than the minimal number of Limited and Non-English-Speaking students

(LES/NES) existed. In specific AB 1329 required California school districts to offer bilingual learning opportunities to each Limited-English-Speaking pupil enrolled in the public schools and to provide adequate supplemental financial support to achieve such purpose.[2]

In 1977-78 bilingual programs pursuant to the provisions of AB 2284 will be repealed and the programs operating pursuant to that Act with a funding level of approximately $8.6 million will be subject to that programatic provision of AB 1329. Those districts currently providing bilingual education programs under the provision of AB 2284 will continue to receive the same level of funding in 1977-78 as they were receiving previously. In addition, three million dollars will be made available to schools via AB 1329 and allocated pursuant to the funding provision of that bill.

In 1978-79, for grades K-6, the funding of both programs will be combined and allocated on the basis of the provisions of AB 1329. For grades 7-12, funding will continue to be allocated as it was under AB 2284. Approximately $12.3 million will be available for grades K-12 in 1978-79 for the purpose of providing bilingual education.

In 1976 Governor Brown recommended to the Legislature that two State categorically funded programs, Bilingual Education and Educationally Disadvantaged Youth (EDY), be combined under a new program entitled Economic Impact Aid. With the enactment of the new School Finance Reform Act of 1977 (AB 65), Governor Brown's recommendation was adopted and bilingual education for the 1979-80

school year will be funded under the new Economic Impact Aid provisions.

Given that bilingual education is now part of the School Finance Act, this document proposes to analyze the impact of the California School Finance Reform Act on bilingual education, and discuss the need for monitoring and accountability.

Results of Bilingual Education to Date

There are approximately 291,000 limited-and non-English speaking students who have been identified for 1977. This is a most conservative count of the targeted population which has a need for bilingual education.

According to State Department of Education figures, only some 29 of the 58 counties received State bilingual education funds during the 1975-76 school year. Within these 29 counties, approximately 41,193 predominately LES/NES pupils were served by State funded bilingual education programs.* This indicates that only 14 percent of the identified LES/NES students were being served. Alameda, Imperial, Los Angeles, San Mateo, and Stanislaus Counties served less than 10 percent of their respective identified LES/NES students. (See Table 1.)

There are approximately 1,048 school districts in the California public school system. In the 29 counties there were approximately 121 school districts providing bilingual education programs with State bilingual education funds. These 121 districts represent approximately 12 percent of all the school districts in the California public schools.

*(Note: Included in the 41,193 figure are 15,743 full English speaking (FES) students)

Approximately $7.7 million of State bilingual funds were expended in providing bilingual education programs to the 41,000 plus LES/NES students that were served during 1975-76. On the average, approximately $187 were made available per LES/NES student served during 1975-76. If all 291,000 identified LES/NES students were to be served with the $7.7 million, then only $26 per pupil could have been spent. The $7.7 million represents only AB 2284 legislative appropriations.

Given limited fiscal resources ($7.7 million) an important decision is whether to concentrate the funds on a few students or spread it out to all identified students. Relative to AB 2284, State bilingual education funds were concentrated on approximately 41,193 LES/NES students rather than spreading it out over all the 291,000 LES/NES students. This resulted in a higher per pupil expenditure. The fact that AB 2284 funds were concentrated is primarily based on the fact that bilingual education was optional for districts to participate in and only 121 districts chose to do so.

With AB 1329 State bilingual education funds the reverse is true; bilingual education programs are required where ten or more non-English speaking pupils or fifteen or more limited-English speaking pupils are located.[3] Consequently, the approximately $3 million from AB 1329 were allocated to approximately 256 school districts in 36 counties serving primarily 170,000 kindergarten through grade 6 LES/NES students. The entitlements for AB 1329 were $17.64 per targeted pupil for 1977-78.

When comparing the legislative commitment to bilingual education with other State funded categorical educational programs, the Legislature has failed to adequately fund its legislative intent

relative to bilingual education programs. During 1975-76 bilingual education via AB 2284 and AB 1329 received only $11 million or 6.2 percent of the $178.6 million allocated for the major state categorical programs. In the following year, 1976-77, bilingual education received relatively less, only five percent of the proportionate share of state categorical programs. Yet, during the same year there was a $41.3 million increase for state categorical programs. Bilingual education received the same amount as the previous year. (See Table 2.)

It is important to speculate why comparison of the amount of per pupil entitlements from two different state categorical programs which are intended to serve similarly targeted student populations could be so different. Specifically, during 1975-76 the EDY entitlements for the 597,396 AFDC (students whose parents are receiving welfare assistance) students was $163 per pupil; while the bilingual education entitlements for the 291,000 limited-and-non-English-speaking students was only $38 per pupil. On the average, AFDC children receive more money than LES/NES students. Funding priority is given to poverty students whose parents are on welfare over LES/NES students.

Studies on the costs of providing bilingual education programs in New Mexico[4] and Texas[5] show that extra costs for providing bilingual education programs are approximately 30 percent above the costs incurred in providing regular educational programs. If the average costs of providing regular educational programs in grades 1 through 6 is approximately $1,100 per pupil, then the added costs for providing bilingual programs to LES/NES students should be approximately $330 per pupil. Given that the most recent count of LES/NES

pupils is 291,000 then the legislative appropriation for funding 100 percent of identified need at $330 per LES/NES pupil is $96,030,000. Currently the State legislative appropriation directly for bilingual education programs is at 11 percent[6] of funding total identified LES/NES student's need.

Given the judicial mandate stipulated in the Lau vs Nichols Decision the current legislative appropriation for bilingual education programs in meeting the needs of LES/NES students is inadequate. The Supreme Court in Lau vs Nichols found that a school district's failure to provide non-English speaking students with a program to deal with their language needs is a violation of Title VI of the Civil Rights Act of 1964. To comply with the Lau vs Nichols Decision school districts should make provisions for instructional programs in a language understandable to each non-and limited-English speaking student. Substantial increases in state appropriations are required in order to comply with the Lau mandate.

Earlier it was pointed out that funds for bilingual education as of 1979 are to be allocated to school districts under the Economic Impact Aid (EIA) formula. Even though the EIA appropriation formula is an improvement over the current Educationally Disadvantaged Youth (EDY) formula, substantial room for improvement remains relative to achieving an equitable funding level for bilingual education programs in meeting the needs of LES/NES students. (See Appendix A for a description of the EDY and EIA formulas).

A basic problem with the EIA formula is the use of economic criteria (number of AFDC[7] and Orshansky[8] students). Educational criteria such as number of LES/NES students, percent students reading below grade level, or students cumulative scores on standardized

tests in the bottom 20th percentile are better criteria and should replace the current economic drivers in the EIA formula.

The current EIA formula favors school districts with high concentration of poverty children as defined by AFDC students (students whose parents are receiving welfare payments) and Orshansky students. The EIA formula assumes that LES/NES students are adequately taken care of within the poverty provisions for additional educational services. This is not the case since LES/NES students whose parents are not receiving welfare payments would not attract EIA funds to their district. This inequity is obvious since the need for those funds has been established by the number of LES/NES students in the state. Economically disadvantaged bilingual students are being discriminated against by the inequitable method of allocating state funds in meeting the needs of LES/NES students.

State funds specifically earmarked for bilingual education, e.g. AB 2284 and AB 1329 have not been increased under AB 65. However, major revisions in AB 65 (to be discussed later) do allow districts to utilize funds under the School Improvement Plan (SIP) and EDY programs in meeting the needs of LES/NES students. School districts requesting SIP and/or EDY funds must submit a plan to the Superintendent of Public Instruction. These in turn must be approved by the State Board of Education.

Approximately $62 million in additional funds have been allocated to the EIA formula which could result in an increased participation rate of LES/NES students. There is no way of accurately predicting what part of the $62 million will be spent in meeting the needs of LES/NES students because the districts have the autonomy when submitting the consolidated application forms of specifying

the targeted pupils and the programs to be implemented to meet their educational needs.

Table 3 presents the school districts receiving the largest amounts of EDY funds in 1975-76 and proposed 1979-80 EIA entitlements with related LES/NES data. Approximately $58 million or 64 percent of the $90 million EDY entitlements for 1975-76 were allocated to the 15 districts. These districts will also receive approximately 64 percent of the projected EIA entitlements for 1979-80.

It is important to note the following statistics based on the 15 districts. For example, the 15 school districts presented in Table 3 contain:

A. 28 percent of the entire public school student population
B. 14 percent of the State total American Indian student population
C. 19 percent of the State total Anglo student population
D. 36 percent of the State total Asian American student population
E. 72 percent of the State total Black student population
F. 33 percent of the State total Spanish Surname student population
G. 46 percent of the State total LES/NES students of which only 4.6 percent were being served.

Given the fact that only 4.6 percent of the State LES/NES student population in the 15 school districts were served during 1975-76 strongly suggests that the EDY formula in AB 65 fails to allocate funds in direct proportion to the number of LES/NES students. Consequently, the EDY formula discriminates against

LES/NES students when in fact the legislative intent was to include them.

Section 54000 in AB 65 relative to EDY programs reads as follows:

> It is the intent of the Legislature to provide quality educational opportunities for children in the public schools. The Legislature recognizes that a wide variety of factors such as low family income, pupil transiency rates, and large numbers of homes where a primary language other than English is spoken have a direct impact on a child's success in school and personal development, and require that different levels of financial assistance be provided districts in order to assure a quality level of education for all pupils.[9]

Possibilities during the past few years for improving the educational needs of LES/NES students in California has improved as evidenced by the legislative intent. To what extent State and school district officials are willing to implement the legislative intent is of primary concern to language minority groups, (i.e., Chicano, Asian, Portuguese, etc.).

Major Provisions of AB 65 on Bilingual Education

If one were to compare the current State public school finance legislation with former school finance legislation relative to bilingual education, a major difference is noted in the inclusion of provisions for the financial and programmatic needs of limited- and non-English-speaking students; these provisions are contained in AB 65 under three components: 1) School Improvement Plan (SIP), 2) Educationally Disadvantaged Youth (EDY), and 3) Economic Impact Aid (EIA).

School Improvement Plan

The School Improvement Plan is a plan developed at an individual school which is based on an assessment of school capability to:

1) meet the educational needs of each pupil, 2) specify improvement objectives, and 3) indicate steps necessary to achieve such objectives, including intended outcomes. The legislative appropriation for implementing this program was $128 million for 1978-79. School district applications for SIP allocations shall assure that they are providing each limited-English-speaking pupil with an educational opportunity equal to that available to English-speaking pupils; and to recommend acceptable projects for approval by the school board.[10] Furthermore, the State Superintendent of Public Instruction shall ensure that funds appropriated pursuant to this article supplement and do not supplant categorical funds allocated from other local and state sources in meeting the needs of limited-English-speaking pupils.[11]

Funds claimed by school districts for purposes of implementing their proposed School Improvement Plan may be expended in the following categories: employment of bilingual/cross-cultural teachers and aides, teaching materials, in-service training, reasonable expenses related to parent advisory groups, health and auxiliary services, and reasonable district administrative expenses. School districts with high concentration of limited-English-speaking pupils in kindergarten through grade 6 are to be given priority in the appropriation of funds.

Educationally Disadvantaged Youth

Provisions for bilingual education under AB 65's Educationally Disadvantaged Youth component are contained in Section 54004.7 which stipulates that the intradistrict allocation plan shall assure adequate support to any school to provide programs appropriate to the educational needs of limited-and-non-English-speaking

pupils as required by the Chacon-Moscone Bilingual-Bicultural Education Act of 1976.[12] The legislative appropriation for implementing this program was $118 million for 1978-79.

One of the factors to be considered in determining the eligibility of school districts to receive EDY funds is the ratio of "potential impact of bilingual-bicultural pupils." This bilingual-bicultural index is determined by dividing the percent of pupils in the district with Spanish and Asian surnames, and Indian pupils based on the 1973-74 ethnic survey by the statewide average percentage of such pupils for unified, elementary, or high school districts, as appropriate.[13] This factor is insignificant when compared to other factors in the EDY funding formula. Specifically, the bilingual-biculutral index is used to determine district eligibility for EDY funds but does not determine the amount of EDY funds a district will receive. The amount of money a district receives is primarily based on the number of AFDC students times a constant ($128 for 1975-76).

Economic Impact Aid

The Economic Impact Aid component of AB 65 combines bilingual education programs and funding with EDY programs and funding as of July 1, 1979. The purpose of this program is to provide a method of impact aid allocation which will allow efforts initiated under the Bilingual Education and EDY programs to continue and expand so long as need exists while previously unserved and underserved populations are provided with adequate aid. Most of the programmatic requirements of the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 are contained in the EIA Program.

It is evident by the above that AB 65 contains major provisions

on bilingual education. However, it is important to note that the provisions are statutory in nature and at best reflect the intent of the Legislature. To assume that the intent of the Legislature will be carried out to the letter of the law is an unwarranted assumption and one that needs to be empirically tested. Principle reasons for the expressed concerns about the implementation of the bilingual education provisions will be discussed in the following sections.

Bilingual Education Implementing Guidelines Contained in AB 65

Each of the educational programs (SIP, EDY, and EIA) which address the needs of LES/NES students in AB 65 have their own criteria and guidelines for implementation.

The following is a brief description of the guidelines for implementing such programs and their implications for bilingual education.

1. School Improvement Plan - School districts must prepare and submit to the Superintendent of Public Instruction an assessment of the needs of the limited-English-speaking pupils in attendance in the school. Based on the needs assessed, the district shall prepare an application on forms provided by the State Department of Education. The State Superintendent will in turn recommend acceptable projects for approval by the State Board of Education.

In allocating funds pursuant to this article, priority is given to districts with high concentrations of LES/NES pupils in kindergarten through grade 6. The State Superintendent shall rank all school districts with LES/NES pupils in grades K-6 in order of the ratio of such pupils to all pupils in grades K-6 in the district. As additional funds become available, districts

shall become eligible for funds based on their ranking percentage of LES/NES students. However, once these districts have been funded, districts with high concentrations of LES/NES students in grades 7-12 are eligible for funds based on a similar ratio.

The State Superintendent is responsible for the administration, review, monitoring, and evaluation of this program. A responsibility of the Superintendent that is of particular importance to language minority groups is a provision which request that a "plan be developed to provide for an adequate monitoring of school and school district compliance with the provisions of this article."[14] In the absence of an adequate plan and systematic monitoring, the legislative intent will fail to be implemented. Consequently, LES/NES students will not be provided the educational opportunities stipulated in AB 65.

2. Educationally Disadvantaged Youth - School districts must submit a plan to the Superintendent of Public Instruction which in turn must be approved by the State Board of Education to receive funds for implementing their EDY programs. AB 65 is very specific on the particulars of the plan. The plan is to include an explicit statement on what the district proposes to accomplish; a description of the program and activities designed to achieve these purposes; and a planned program of annual evaluation, including the criteria to be used to measure the effectiveness of the program.

Section 54005 of AB 65 stipulates that "The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the administration, monitoring, evaluation, and dissemination of programs submitted for consideration."[15] This program will become inoperative as of July 1, 1979 at which time it will become part of the Economic Impact Aid program.

3. Economic Impact Aid - It is the legislative intent to provide those districts receiving EIA allocations with "sufficient flexibility to design and administer an intra-district allocation system which reflects the distribution and the needs of the needy population and assures the provision of services to students traditionally served by the educationally disadvantaged youth programs and bilingual education programs."[16] The legislative intent allows for local district autonomy in meeting its unique educational needs. Of concern to the language minority community is the extent to which the district is exercising the desired flexibility in meeting the needs of LES/NES students.

It is of utmost importance that a sound monitoring system be developed by the State Board of Education; and that such a plan be rigorously enforced by the Superintendent of Public Instruction.

Monitoring and Accountability of Bilingual Education Legislation

Given the potential impact of AB 65 on bilingual education as discussed previously, it becomes imperative that AB 65 be closely monitored. However, one is not to assume that AB 65 is a comprehensive, all inclusive piece of legislation that adequately addresses the needs of LES/NES students; nor does it propose a model bilingual education program. On the other hand, AB 65 contains certain assurances and provisions that the needs of LES/NES students be adequately met.

AB 65 via the School Improvement Plan and Educationally Disadvantaged Youth Program has appropriated approximately $246,539,000 which may be utilized in meeting the needs of LES/NES students during 1978-79. Of significant importance is the fact that a large amount of state funds will be made available to districts to imple-

ment programs essential in meeting the needs of LES/NES students. A major accomplishment of AB 65 relative to bilingual education is the provisions for LES/NES students. These provisions are totally unknown in previous major school finance legislation.

Apart from the $246 million, the Legislature has also appropriated $12 million earmarked specifically for bilingual education via AB 2284 and AB 1329 during 1978-79.

The State Board of Education has been charged by the Legislature with the responsibility of adopting rules and regulations and setting forth standards and criteria to be used in the administration, monitoring, and evaluation of such programs. In adopting such rules and regulations it is imperative that the intent of the Legislature be met. Three factors are essential in the development of a sound monitoring system for the implementation of quality bilingual programs for LES/NES students. First, a community network of parents must be established to oversee that the quality of bilingual programs are consistent with the rules and regulations adopted by the State Board. Second, the State Board's rules and regulations to be adopted must be based on a model bilingual education program guidelines. Third, access to legal interpretation and analysis of State statutes, State Board's policies, rules and regulations is essential to permit maximum effectiveness in the monitoring process. The language minorities and bilingual members from the broader community must take the responsibility in assuring that the highest standards and best criteria be developed, and that such standards and criteria be sensitive to the cultural, linguistic, and educational needs and conditions of the targeted populations the programs are designed to serve.

Ensuring that school districts receive the required state funds to adequately implement the programs essential in meeting the needs of LES/NES students is only a part of the total problem language minority group members have relative to the fact that there is a severe lack of quality educational opportunities afforded primarily to LES/NES students. Since recent legislation has made approximately $258 million available to insure that the needs of LES/NES students be adequately met then the concerns of language minority group members are basically focused on the development and implementation of a monitoring system to assure that school districts are spending such funds in providing adequate and quality programs for LES/NES students.

The State Board of Education's rules and regulations should require the implementation of only those programs which have proven successful in providing quality programs to LES/NES students. To allow school districts the "flexibility" to design their own programs--given the history of districts' reluctance and in some cases outright refusal to meet the needs of LES/NES students by implementing quality bilingual programs--is for the most part very dangerous in that it allows certain districts the loophole to subvert the law, and unfortunately for LES/NES students, get away with it.

The rules and regulations should also require that the best qualified staff, using the best materials available be utilized in providing quality programs to LES/NES students. Techniques for implementing a sound monitoring system are also required of the regulations. Unless the Board's rules and regulations require the implementation of quality educational programs by applying the highest standards of all districts, then the availability of

millions of dollars for meeting the needs of LES/NES students is at worst fraudulent and at best symbolic.

The Superintendent of Public Instruction is responsible for the administration, implementation, and monitoring of such educational programs in accordance with the rules and regulations adopted by the State Board of Education. AB 65 also stipulates certain responsibilities for the State Superintendent relative to educational programs designed for LES/NES students.

A number of the responsibilities include that the Superintendent of Public Instruction ensure that: 1) sufficient bilingual personnel are available within the Department of Education who are familiar, competent, and proficient in bilingual-crosscultural instruction, 2) the Department of Education personnel be sufficiently trained to carry out the legislative intent in meeting the needs of LES/NES students, 3) an administrative unit with the Department of Education be established which is responsible for bilingual-bicultural educational programs and policies, 4) an annual evaluation of bilingual needs and programs within the State be developed for submission to the Legislature and the Governor, and 5) a plan be developed to provide for adequate monitoring of school and school district compliance with the provisions of said article.

The strictest adherence to and successful implementation of an adequate monitoring plan by the State Superintendent is of utmost concern to language minority groups. The importance of this legislative mandate cannot be over-emphasized. Should the State Superintendent fail to adequately monitor, review, and evaluate the school districts performance and programs designed for LES/NES students, then the State appropriated funds combined with the State Board of

Education rules and regulations are questionable.

Language minority groups and advocates of bilingual education must take the responsibility of holding the State Board of Education accountable for the adoption of rules and regulations which assure quality educational opportunities for LES/NES students, and maintain fiscal integrity.

Furthermore, language minority groups and advocates of bilingual education must take the responsibility of holding the State Superintendent of Public Instruction accountable for all of the responsibilities stipulated in AB 65 for those educational programs designed for LES/NES students. Foremost of those responsibilities is not only the development of a plan for an adequate monitoring system, but the successful implementation of such a system.

The urgency for this matter is demonstrated by Flores vs El Centro School District et al,[17] a class action suit which alleges that the State Defendants[18] continued to allow El Centro School District to deny the plaintiffs an equal educational opportunity. Specifically the case states that:

> Defendant Riles has a duty under the California and United States Constitution to ensure that all students in California school districts receive an equal educational opportunity, regardless of their race, ethnic origin, cultural background, or primary language. State Defendants know or should know that Local Defendants have denied an equal educational opportunity to Plaintiffs.[19]

The implications of this suit strongly suggest that the State Department of Education and the Superintendent of Public Instruction have failed to develop and implement a monitoring system to account for the fiscal and programmatic provisions in assuring equal opportunity to the plaintiffs.

In large part, the key factor in assuring that the needs of LES/NES students be adequately met and that quality educational

programs be provided to them, is the extent to which language minority groups can hold the State Superintendent of Public Instruction accountable for assuring that school districts are in compliance with the State Board of Education's rules and regulations via a strict monitoring system.

Summary and Conclusions

Based on the results of this study the California School Finance Reform Act has had a major impact on bilingual education. Provisions for meeting the needs of non-and limited-English speaking students are contained in AB 65 under three different educational programs. For 1978-79 legislative appropriations approximating $246 million are available through the School Improvement Plan and Educationally Disadvantaged Youth Programs which both contain provisions for meeting the needs of LES/NES students.

The State Department of Education must develop rules and regulations to assure that the needs of LES/NES students are met in accordance with the legislative provisions. The Superintendent of Public Instruction must be held accountable for the administration, implementation, and monitoring of such educational programs in accordance with the rules and regulations adopted by the State Board of Education. Furthermore, the Superintendent must comply with the responsibilities stipulated in AB 65 regarding educational programs designed to meet the needs of LES/NES students.

AB 65 contains provisions and fiscal support for assuring that the needs of LES/NES students be met. In order to carry out such provisions a sound monitoring system must be designed and implemented to hold the State Department of Education and Superintendent of Public Instruction accountable for their responsibilities in meeting the needs of LES/NES students.

Legislative provisions and fiscal support go half way in meeting the needs of LES/NES students. The rest of the way is accomplished by implementing such provision with quality bilingual programs.

REFERENCES

1. Education Code, Chapter 1010 Statutes of 1976, Part 28. General Instructional Programs, Chapter 7, Bilingual Education, p. 1290.

2. Assembly Bill No. 1329, California State Legislature, Chapter 978, September 1976, p. 3.

3. Ibid., p. 6.

4. Garcia, Joseph O., "Cost Analysis of Bilingual, Special, and Vocational Public School Programs in New Mexico", Unpublished Ph.D. Dissertation, University of New Mexico, 1976.

5. Cardenas, Jose A., Bernal, Joe L., and Kean, William, "Bilingual Education Cost Analysis", Intercultural Development Research Association, 1976.

6. The 11 percent figure is determined by dividing the $11 million combined appropriations in AB 2284 and AB 1329 by $96,030,000, the amount required to fund 100 percent of identified need.

7. AFDC - Aid to families with dependent children is an indicator of poverty as determined by the number of children (ages 5 - 17) from families receiving welfare payments.

8. Orshansky is a measure of poverty as determined by the number of children (birth - 18 years) falling below the Orshansky poverty level. The Orshansky poverty level is determined on the basis of the cost of food for farm and non-farm families of various sizes.

9. Assembly Bill No. 65, California State Legislature. Chapter 1, Educationally Disadvantaged Youth Programs Section 54000, p. 51.

10. Assembly Bill No. 65, California State Legislature, Chapter 6, Improvement of Elementary and Secondary Education, Section 52117 (5), p. 49.

11. Ibid., Section 52168 (a), p. 46.

12. Ibid., Section 54004.7, p. 53.

13. Ibid., Section 54002 (a), p. 51.

14. Ibid., Section 52177 (6), p. 49.

15. Ibid., Section 54005, p. 53.

16. Ibid., Section 54004.3, p. 53.

17. Flores vs. El Centro School District et al, Originally filed on October 10, 1975 at the Los Angeles Superior Court, Case #C13811.

18. State Defendants refers to the Superintendent of Public Instruction and State Board of Education.

19. Flores vs. El Centro School District et. al. op. cit., p. 9.

TABLE 1

COUNTIES RECEIVING STATE BILINGUAL EDUCATION FUNDS
WITH NUMBER OF LES/NES STUDENTS, DISTRICTS, SCHOOLS,
AND STUDENTS SERVED DURING 1975-76

	# LES/NES Students	# Students Served	% Students Served	# of Districts	# of Schools
Alameda	13,020	1,172	9.0	4	12
Contra Costa	1,653	1,569	94.9	4	13
Fresno	6,278	1,032	16.4	4	11
Imperial	6,150	362	6.8	2	4
Kern	3,869	516	13.3	4	4
Kings	1,314	926	13.2	2	9
Los Angeles	139,439	11,594	8.3	28	171
Madera	448	174	38.8	2	11
Mendocino	169	77	45.5	1	3
Monterey	4,526	883	19.5	4	17
Orange	14,763	1,650	11.2	6	14
Placer	216	716*	331.5*	2	16
Riverside	7,979	922	11.5	3	7
Sacramento	4,923	662	13.4	4	6
San Benito	1,803	344	19.0	1	1
San Bernardino	7,602	2,541	33.4	6	25
San Diego	19,062	5,235	27.5	10	42
San Francisco	13,253	2,261	17.0	2	31
San Joaquin	2,727	1,175	43.0	4	9
San Luis Obispo	303	196	64.6	1	1
San Mateo	2,927	105	3.5	1	1
Santa Barbara	2,374	605	25.4	4	6
Santa Clara	12,080	3,276	27.1	7	20
Santa Cruz	1,678	585	34.8	2	7
Stanislaus	2,968	257	8.6	2	4
Tulare	2,696	286	10.6	2	4
Ventura	6,767	1,470	21.7	7	12
Yolo	1,708	427	25.0	1	6
Yuba	336	175	52.0	1	2
TOTAL	283,031	41,193**		121	469

*Numbers are inflated since a consortium exists that cuts into other counties and inflates counts of LES/NES students.

**Number includes 15,743 FES students

TABLE 2

A COMPARISON OF STATE FUNDED CATEGORICAL EDUCATIONAL PROGRAMS FOR 1975-76 AND 1976-77

Educational Program	1975-76 Entitlements	1975-76 % of Total	1976-77 Entitlements	1976-77 % of Total	Targeted Pupils
Educational Disadvantaged Youth (EDY)	90,482,000	50.6	97,484,000	44.3	597,396 (1976)
Early Childhood Education	63,200,000	35.3	97,450,000	44.3	-
Miller-Unruh	13,850,000	7.7	13,850,000	6.2	-
Bilingual Education					
AB 2284	8,140,000		8,140,000		290,000
AB 1329	3,000,000	6.2	3,000,000	5.0	(1975)
	178,672,000	100.0	219,924,000	100.0	

TABLE 3

SCHOOL DISTRICTS RECEIVING THE LARGEST AMOUNTS OF EDY (1975-76) FUNDS AND PROPOSED EIA (1979-80) ENTITLEMENTS WITH RELATED LES/NES DATA

School District	1975-76 Per Pupil EDY Funds	1979-80 Per Pupil EIA Funds	Total In District	LES/NES Students		
				No. Served	No. Unserved	Percent Served
Compton	108.61	179.31	780	166	614	21.2
San Francisco	86.28	159.72	13,253	2,140	11,113	16.1
Alum Rock Elementary	81.20	155.81	1,003	617	386	61.5
Oakland Unified	80.58	130.66	6,274	1,006	5,268	16.0
Stockton Unified	62.53	115.26	1,119	616	503	55.0
Montebello Unified	54.54	115.21	2,688	431	2,257	16.0
Bakersfield Elementary	49.71	76.82	527	334	193	63.3
Los Angeles Unified	41.08	78.44	93,268	3,572	89,696	3.8
San Bernardino Unified	40.42	76.87	1,955	1,071	884	54.7
Fresno Unified	34.85	55.71	2,354	844	1,510	35.8
Pasadena Unified	34.72	72.30	1,526	497	1,021	32.5
Richmond Unified	32.33	47.73	361	346	15	95.8
Sacramento Unified	29.46	54.24	3,316	168	3,148	5.0
Long Beach Unified	21.23	46.31	2,616	367	2,249	14.0
San Diego Unified	13.48	24.99	3,704	1,472	2,232	39.7
TOTAL			134,744	13,647	121,097	

Appendix A

The following equation illustrates the components in the Educationally Disadvantaged Youth (EDY) Program formula:

$$EDY_d = \frac{BB + FP + PT}{3} \times AFDC \times c$$

Where:

EDY_d = EDY entitlements to a district

BB = Index of bilingual bicultural pupils

FP = Index of family poverty

PT = Index of pupil transiency

AFDC = Number of AFDC students

c = constant (In 1975-76, c = $128)

NOTE: $2 > \frac{BB + FP + PT}{3} \leq 1$

The following equation illustrates the components in the Economic Impact Aid (EIA) formula:

$$EIA_d = \frac{BB + FP + PT}{3} \times \frac{AFDC + OSKY}{2} \times c$$

Where:

EIA_d = EIA entitlement to a district

BB = Index of bilingual bicultural pupils

FP = Index of family poverty

PT = Index of pupil transiency

AFDC = Number of AFDC students

OSKY = Number of Orshansky students

c = constant (1979-80, c = $440)

NOTE: $2 > \frac{BB + FP + PT}{3} \leq .35$

Appendix A
continued

The Economic Impact Aid formula combines the state allocation systems for EDY and Bilingual Bicultural Programs (AB 1329). Besides the obvious semantic change in the names of the allocation systems from EDY to EIA there are three important changes.

Change #1

The first change is the inclusion of the Orshansky measure in the driver of the EIA equation. The drivers for the two formulae are:

Formula	Driver
EDY (old)	AFDC
EIA (new)	$\frac{\text{AFDC + OSKY}}{2}$

Under the EDY formula only those districts with students whose parents are receiving public welfare assistance (AFDC students) are able of generating entitlements. The more AFDC students, the more entitlements the districts are elibible to receive.

By including the Orshansky measure in the EIA formula, districts with students who are economically disadvantaged but whose parents are not necessarily receiving public welfare assistance are eligible to receive entitlements. A significant advantage of the EIA formula over the EDY formula is that in the EIA formula students in need of special educational services, i.e., bilingual education and who are economically disadvantaged; their parents need not be receiving public welfare assistance in order to qualify for state categorical entitlements.

Appendix A
continued

Change #2

The second important change is the reduction of the bottom ceiling of the average of the three indices from 1.0 to .35.

Formula	Indices
EDY (old)	Note: $2 > \frac{BB + FP + PT}{3} > 1.0$
EIA (new)	Note: $2 > \frac{BB + FP + PT}{3} \geq .35$

The sum of the three indexes (bilingual bicultural pupils, family poverty, and pupil transiency) represents a measure of the district's educational need. There is a formula to calculate each of the three indexes. Under the EDY formula with a bottom ceiling of 1.0 a total of 426 school districts received EDY entitlements. Under the EIA formula with a bottom ceiling of .35 a total of 888 districts will receive EIA entitlements. The lowering of the bottom ceiling by .65 resulted in an increase of 462 school districts eligible for compensatory education funding.

Change #3

The third change is the increase in the constant from $128 (1975-76) to $440 (1979-80).

Formula	Constant
EDY (1975-76)	$128
EIA (1979-80)	$440

The $312 increase is significant because it goes well beyond the average 6 percent annual increase in all the other funding categories.

THE ALLAN BAKKE DECISION: AN ANALYSIS OF ITS IMPLICATION FOR AFFIRMATIVE ACTION AND HIGHER EDUCATION*

By

Manuel H. Guerra, Ph.D.

Bakke prevailed.[1] The criteria of Race and Ethnicity in Affirmative Action Programs prevailed. The Harvard College Admissions Program prevailed. The Equal Protection Clause of the Fourteenth Amendment prevailed. The provisions of Title VI of the Civil Rights Act of 1964 prevailed. The concept and remedies of Affirmative Action and Affirmative Admissions Programs to bring Minorities and Women into the mainstream of American life prevailed. The protection of Academic Freedom in Academe under the First Amendment prevailed. On the other hand, the two-track Special Admissions Plan and quota of the Medical School of the University of California, Davis, did not prevail. The criteria of race and ethnicity as the sole basis for selection did not prevail. The concept of rigid quotas, with floors and ceilings in numerical allocations, did not prevail. The concept of the burden of remediation carried by certain classes at the expense of other classes, due to historical discrimination, did not prevail.[2]

What we may say, then, is that a closer analysis of the Opinions of the Supreme Court Justices and the Publications of the United

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* A study developed for the Hon. Manuel R. Ruiz, Jr., United States Commissioner of Civil Rights. Dr. Guerra was a participant and Consultant on both Affirmative Action in Higher Education conferences and the Bakke case, to the U.S. Civil Rights Commission.

States Civil Rights Commission[3] sharpen the focus and clarify the issues and polemics of both Advocates and Critics alike.

Bakke is a landmark decision. Bakke will have a definite impact on Categorical Programs, Higher Education, and Affirmative Action. The statements that all remains the same, that nothing has changed, that the status quo has not been challenged, is false and misleading. An unequivocal statement which resembles the truth is that the Bakke decision will surely be misinterpreted, misunderstood, and disliked.[4] To both Advocates and Critics the Bakke decision either went too far or not far enough. To both Advocates and Critics the Bakke decision left the same uncertainties and confusion as before. For example, how can you reconcile historical discrimination and Minority unemployment today without remedies that are race, ethnic, and number concious? Who in America today is willing to accept the burden of yesterday's discrimination? How can Affirmative Action bridge the inequities and bring more Minorities and Women into the mainstream of Higher Education and Employment when remedies restrict any bias and partiality toward those classes who are identified as "disadvantaged" and eligible for remediation? This basic problem has been with us since the 1964 Civil Rights Act and Title VI which the Supreme Court addresses in the Bakke case.

The problem of semantics prevails in the Bakke case. The word "quota", the "quota system", the use of "quotas", is rejected in this case, just as it has been opposed by Jewish American organizations[5] and other groups prior to this case. The Supreme Court Justices themselves[6] lament the rigid bottom and ceiling of fixed numbers in Admissions Programs. Nevertheless, the original problem still prevails,

how do you remediate historical and contemporary discriminatory practices against certified classes within the framework of Constitutional and Statutory Law without asking the majority classes of American society to share the burden of Minority and Women appointments in Higher Education and employment--whether it is for the national interest or the Community good? Supreme Court Justice Powell clearly rebukes the idea that any American should inherent the burden of paying for the discrimination sins of his or her forefathers.[7] That the innocent should be penalized for the wrongs of others is incompatible with the spirit and substance of American Jurisprudence. However, the sins of the past are visited upon the children of the present, and what began in the past, continued to the present, and in both the legal and moral framework of American life, the problem remains in defiance of both time and laws. What we have at present is an opportunity to bring the country closer together in unity and social justice.

.What I would like to do here is focus on three aspects of the Bakke decision: first, a summary analysis of the Supreme Court decision itself; second, an analysis of the implication of the Bakke case for other Categorical Programs, such as Title VII Bilingual-Bicultural Programs; third, the Harvard College Admissions Program and its application to other institutions of Higher Education.

I. <u>The Supreme Court decision</u>

The Supreme Court of the United States, on June 28, 1978, declared in a five to four decision, in which Justice Lewis F. Powell provided the "swing" vote, that 1) the California Supreme Court judgement that held the petitioner's special admissions program invalid

under the Fourteenth Amendment must be affirmed.[8] 2) That the California Supreme Court judgement which enjoins petitioner from any consideration of the race of any applicant must be reversed. 3) That the respondant Allan Bakke was entitled to an injunction directing his admission to the Medical School, University of California, Davis, and that part of the judgement must be affirmed. 4) That the Harvard College Admissions Program is an acceptable kind of Admissions Program because it seeks diversity of its student body and faculty without target quotas and it may use Race or Ethnic considerations among other criteria in the selection process.

Concerning the first statement, that the University of California Medical School Special Admission Plan was a violation of the Fourteenth Amendment, and more particularly, the Equal Protection Clause, Justice Powell considered this plan to be a racial classification and quota that did not respect the rights of the respondant.[9] He was joined by Justices Burger, Rehnquist, Stevens, and Stewart. The prevailing view stated that Bakke could apply for only 84 seats in the class, while Minority applicants could apply for 100. And that 16 seats in the class were out of reach to Allan Bakke. This selection process of 16 seats earmarked for Blacks, Chicanos, Asians, and Native Americans, excluded Bakke's qualifications because of Race, not the other considerations of qualitative values, test scores, extra curricular activities, potential, etc., and for that reason, violated the Equal Protection Clause of the Fourteenth Amendment.[10]

On the other hand, Justice Blackmun did not feel uncomfortable with the Davis quota system, nor with the racial conciousness or classifications.[11] Justice Blackmun did not feel uncomfortable with governmental preference either, whether it be addressed to veterans, aid to

the handicapped, or progressive income tax. Simply because Native Americans are wards of the Government he does not take exeption to benefits addressed particularly to this society. Justice Blackmun finds it ironic that objections were raised when racial and ethnic groups were identified as beneficiaries of the Special Admissions Program of Davis when in fact throughout American academe both undergraduate and professional schools have admitted students because of preferences of athletic skills, children of alumni, of the affluent, of families who bestow large grants to institutions, to celebrities, to powerful and famous people.

However, when the Medical School at Davis endeavored to correct the historical inequities which continued to debilitate the medical profession and health needs of the State, the same issue of preferential treatment was raised to challenge the right of a State University to include Race and Ethnicity as valid criteria.

It is said that Justice Blackmun took the longest time to make up his mind of any of the Justices. However, joined by Justice Brennan, White, and Marshall, just as we may look to the minority opinion of Justice Marshall[12] for the best documentation of the historical plight of America's Black society, we may also look to Justice Blackmun's opinion as perhaps the most candid and the most perceptive:

> "It is gratifying to know that the Court at least finds it constitutional for an academic institution to take race and ethnic background into consideration as one factor among many in the administration of its admissions program. I presume that that factor always has been there, though perhaps not conceded or even admitted. It is a fact of life, however, and a part of the real world of which we are all a part. The sooner we get down the road toward accepting and being a part of the real world, and not shutting it out

> and away from us, the sooner will these difficulties vanish from the scene.
> I suspect that it would be impossible to arrange an affirmative action program in a racially neutral way and have it successful. To ask that this be so is to demand the impossible. In order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently. We cannot--we dare not--let the Equal Protection Clause perpetrate racial supremacy.
> So the ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?".[13]

II. <u>The Implication of the Bakke case on other Categorical Programs</u>

There are many legal citations,[14] sociological concerns, and historical commentaries which must be studied impartially and objectively in order to grasp the full impact of the Bakke decision. I can only list them here and comment briefly on their importance. I leave to legal scholars, historians, sociologists, and other government interpreters the more specialized analysis of the Bakke decision and its consequences. But some things may be said now:

1. It is interesting that Blacks, Chicanos, Asians, and Native Americans were defined as members of a "minority group", that this groups was viewed as "discrete and insular minorities", and that the term "Chicano" was validated as an ethnic class; that the classification of Native Americans was left out in the summary of Justice Powell, even though it was included in several parts of the text.[16]

2. It is interesting that the terms "discrimination" and "equal protection of the laws" have not been legally defined, although they have been extensively debated on the floor of Congress and have

appeared in numerous cases of litigation. In spite of all this, neither the majority nor the minority opinion define such phrases but simply tell us that we must look elsewhere in prior case histories to find precise meanings.[17]

3. It is interesting that the issue of the level of judicial review and scrutiny concerning racial classifications was raised and that the majority opinion concurred that where racial and ethnic classifications were concerned, "Racial and ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination".[18] This subject brings up characterizations of class stigma, victimazation, discreetness, insularness. The text of Judge Powell's opinion and that of the Majority Justices document in great length minority groups in American society who have either sought relief from discrimination or would be eligible for such relief.[19] After stating that the Supreme Court is not qualified to speak for the competencies of such professionals as Sociologists, Administrators, Linguists, etc.,[20] the highest court does document its text with extensive studies that support its particular position, and does embrace a particular point of view. It discusses, for example, Far Eastern and Middle Eastern European immigrants and their religion[21], in contrast to the four classifications of the Medical School of the University of California, Davis. It seems that the sociological history of the Cultural Pluralism of American society has not been understood in the context of comparative research and study, on the one hand, and in-depth study of cultural differences of each group, on the other. For example, Chicano, Native American and Asian groups who participated in the History of Western United States do not con-

form to the European criteria and frame of reference predominantly responsible for the growth and development of the Eastern United States Establishment. Indian Treaties and the Treaty of Guadalupe Hidalgo[22] are never cited, not even by Justice Marshall who elocuently reminds us of the ravages of slavery, and Justice Powell who feels uncomfortable with a concept of "benign" discrimination against the white majority because the principle does not justify the impact.[24]

In comparing one minority group with another, perhaps it is correct that misery cannot be equated. However, it does not require too much scrutiny to observe that the malignancy of racism, whether it is overt or covert, has visited some groups more persistently and intensely than others, and for that reason, some groups do not have access to Equal Educational and Employment Opportunity. Their entry into the mainstream of American life is impeded by such arbitrary barriers, and without Affirmative Action, their entry could be permanently denied.

If we compared the Norwegian American background of Bakke with that of other disadvantaged groups, such as the four that were certified by the University Medical School at Davis, Bakke would have had difficulty certifying his Norwegian American classification as a "disadvantaged" group, say, in contrast to the Chinese children of San Francisco under Lau v. Nichols. It seems particularly important to remember Justice Blackmun's comment about equal treatment, different treatment, in a broader and more comprehensive understanding of American Minority Groups and their valid claim to legal relief. At the same time, as I have stated, all individuals may seek protec-

tion under the Fourteenth Amendment of their personal rights. To certify their class as an eligible candidate for legal relief is something else again. Perhaps German-Americans[26] are discriminated against, and find cause to file a complaint. To certify German Americans as a discreet and insular class whose treatment has been invidious is another matter. Because it would be necessary to prove that German-Americans, as a class, have been denied access to the processes of Equal Educational and Employment Opportunity, and due process, and entry into the mainstream of American life. All this would be almost impossible to accomplish, with so much evidence of German-American institutions, social and economic involvement, and political representation in the power structure, i.e., the late Dwight B. Eisenhower, President of the United States.

This understanding of America's pluralistic societies, or the lack of it, seems to be at the bottom of the assimilationist and acculturationist concept of Government and Education. The Title VII Bilingual-Bicultural Program, and some other titles (Title I; Migrant Education; Early Childhood Education, etc.) ran into this ideological dispute from its very beginning. Philosophical arguments concerning transitional and maintenance Bilingual-Bicultural Programs are divided along the lines of assimilation and acculturation. More often than not the Melting Pot concept, evoked in the Bakke decision by Justice Marshall[29], is an antithesis of Cultural Pluralism which subscribes to both integration as well as respect for cultural differences.

For example, the English language component or ESL unit (English as a Second Language) has always enjoyed acceptance and stability in the Bilingual-Bicultural Program. However, the teaching in Chi-

nese, Spanish, Navaho, Portuguese, Tagalog, etc., in the same Program, has always been challenged or reluctantly accepted. The Cultural Components of such Programs have equally been challenged or threatened, even after the Lau v. Nichols decision. The validation of race and ethnicity considerations of the Bakke case seem to certify the legitimacy and legality of a stream of conciousness which ultimately maintains as its goals the entry of Americans into the mainstream of American life.

In view of the Bakke decision, it will be incumbent upon Admission officers in Higher Education to document and certify the educational needs, social inequities, and racial and ethnic statistics in the development of admissions criteria which seek diversified student bodies. Indeed, if the intent of Title VI, Affirmative Action, and educational remediation is to accomodate itself to the spirit and substance of the Bakke decision, then it will be necessary to look beyond the classes whom the colleges and universities deem "disadvantaged" and correlate the needs of the state and the needs of the educational institution accordingly.

It is my opinion that Title VII, Bilingual-Bicultural Education, will profit greatly from the Bakke decision. My views are due to the following facts. The accreditation of Race and Ethnicity as legitimate and valid considerations of a pluralistic criteria of college admission also accredits and acknowledges the realities of American pluralistic societies and their Bilingual-Bicultural character. The concerns of professional school admissions, i.e., Law School and Medical School,[30] like in the Bakke case, and the remedies supported by the Supreme Court, i.e., Lau v. Nichols and the Harvard

College Admission Program, are unequivocably linked. As we shall see, the Harvard Program is concerned with the advantages and benefits of a diversified student body and the use of Race and Ethnicity as one criterion of a pluralistic criteria,[32] while the Davis Program was concerned with the remediation of historical discrimination and the same diversification of student body and interests.[33] It seems inconceivable that students who need language and culture remedial programs could ever compete for class seats in Law or Medical School, such as the Minority students competed in both admissions plans at Davis, if they did not receive the necessary Bilingual-Bicultural instruction which eliminated linguistic obstacles, developed a strong self-concept and an effective competitive spirit, and a successful academic track record and testing ability.[34] Title VII Bilingual-Bicultural Education is the proving grounds where children learn to compete and succeed, in both cognitive and affective skills, and enter the mainstream of community life. The fact that the court quotes and cites Lau v. Nichols several times,[35] in the context of defining culturally different Americans and constitutional rights under the First and Fourteenth Amendments, reinforces Lau and Lau compliance, and makes it all the more clear that the mandate of the Supreme Court in the Bakke decision is Race and Ethnic concious. The fact that some sanctions are discussed, such as cutting off funds[36]; that guidelines are discussed concerning standards and compliance; that four classifications were defined by the University of California at Davis as eligible for remedial relief, that Race and Ethnicity were upheld as valid considerations of the selection

process, all support the principal goal and objective of Lau, to bring the culturally different child with linguistic differences to the process of Equal Educational Opportunity, and through this process, into the mainstream of American life. Racial awareness, racial conciousness, and comparative racial and ethnic cultural analysis, inherrent in the Bakke case, sharpened the focus of a subject which lay dormant and complacent, and although public opinion lamented the divided opinion of the Supreme Court, the six opinions which were rendered provided considerable clarification and documentation of fundamental legal, moral, and educational issues. Indeed, Title I, addressed to disadvantaged and culturally different children, and Title VII, to language and culture needs, will gain from the certification of Race and Ethnicity as valid criteria, while the success of Lau and Title VII is invariably linked to the success of the admission programs to provide a diversified student body and faculty with racial and ethnic criteria in mind. The same may be said for those Programs of the Emergency School Education Act. If it is true that the Cultural Components of the Title VII Program are in trouble, we can only ask the Bilingual-Bicultural Office of USOE (United States Office of Education) for a careful reading and assessment of the Bakke decision, and the last three publications of the United States Civil Rights Commission, "Affirmative Action in Employment in Higher Education", 1975[37], "Statement on Affirmative Action", No. 54[38], October 1977, and "Toward Equal Educational Opportunity: Affirmative Admissions Programs at Law and Medical Schools", No. 55, June, 1978[39]. The focus on the Bakke decision on the basic problems confronting minorities and the need for remedial criteria and admission programs,

validating the use of Race and Ethnicity in selection practices, corroborates the Lau decision and compliance in the educational process to provide Equal Educational Opportnity. It would be as impossible to provide language remediation without cultural reinforcement as it is to implement Affirmative Action without racial and ethnic consideration. (Please consult Judge Blackmun's Opinion)

III. The Harvard College Admissions Program

The study, analysis, and comparison of the Harvard College Admissions Program,[40] and that of the Medical School, University of California, Davis, and other institutions, is vitally important to government agencies with responsibilities of compliance evaluation and Program development, and colleges and universities with Affirmative Action Admission Programs. The Harvard Plan was acceptable to Supreme Court Justice Lewis F. Powell, Jr., and the prevailing Majority Opinion.[41] Since the Harvard Plan was incorporated in the Appendix of Judge Powell's Opinion, as one of the fifty one Amicus Curiae briefs[42], the one submitted by Columbia, Stanford, Harvard, and the University of Pennsylvania, it became a model for emulation through the procedure of recommendation and endorsement. Therefore, we must turn to the Harvard Plan to compare what principles and philosophy are involved, what criteria has been developed, what limitations inhibit us from applying all factors and examples to our own Program and Policies.

There are approximately 20,000 applicants each year for the 1600 available freshman seats each year at Harvard.[43] Approximately ten (10%) percent of the applicants, the highest academic grades and scores, are admitted automatically.[44] The middle majority are admitted

on the basis of diverse and promising qualifications, such as geographic, economic, and racial considerations, as well as talents, extracurricular activities, unique experiences, leadership potential, character, self-concept, academic interests. The goal of college admission officers is student body variety, and the rationale is the belief that diversity adds an essential ingredient to the educational process.[45] It was this kind of diversity in which race and ethnicity were one criterion of many which Justice Powell cited as acceptable.[46] The Admission Committee admits that if the goal of a heterogeneous student body is to be achieved some consideration for numbers must be employed. But this consideration only defines extremes between too few and too many students of one category, and does not establish target quotas of any kind.[47]

It is interesting to compare the priority and preference of the Harvard Plan and the University of California, Davis, Special Admission Program. Harvard admits the highest academic achievers without submitting their qualifications to the pluralistic criteria of the large middle admission group. If the students excell in their GPA scores, College Entrance Examinations, Science and Mathematics Examinations, and all records and recommendations, their intellectual abilities and potential qualify them automatically for admission. Here, intellectual ability and promise is certified as the best credential for institutional admission. The University of California, Davis, on the other hand, certified the racial and ethnic background of sixteen applicants as economically and culturally disadvantaged, and gave them the highest priority of admission under

both admission programs, the Regular and the Special, provided that their GPA scores, MCAT scores, their personal profile of cultural achievement and motivation, other talents and activities, recommendations and references, were within the standards and norms of their group. In other words, Race and Ethnicity were considered in their respective cases just as important as intellectual promise and high scores of Harvard applicants. The fixed number or quota was there in both cases, although Davis publicly shared the number, while Harvard did not. What is lamentable is that the Admission Committee did not provide the Minority applicants who declared themselves to be "disadvantaged" at Davis with a Bilingual-Bicultural-Multicultural Examination to certify linguistic and cultural competencies in the area of their respective choices of practice. For example, why not award the Bilingual-Bicultural applicant who can speak Chinese or Spanish beside English with admission points when he or she chooses to practice in East Los Angeles or Chinatown San Francisco, where prospective patients speak exclusively Spanish and Chinese? And conversely, how many citizens are deprived of adequate medical and health care because of the lack of Bilingual physicians and nurses? Are these concerns legitimate problems of the State Medical School--in this case California--with Blacks, Asians, and Chicanos 25% of the total population--but only 14% of the Minority enrollment in the State Law and Medical Schools? It is not difficult to understand the underlying philosophy of our Land Grant Universities and our State institutions in contrast to our Ivy League Universities such as Harvard and Princeton.[49] There is a different relationship and responsibility

between our private and public universities and the constituencies they serve. Intellectual and academic excellence is indeed a sought after goal which Higher Education can truly appreciate. Serving this clientele is only one objective of the institutional order, however, and there will be some who will debate that the program concerned with Minority admissions, not to correct historical injustices, but to correct contemporary imbalance, is just as important if not moreso. So there you have two points of view, which, like the opinion of Professor Peter Westen, Professor of Law, University of Michigan, perceives the notariety of differences between the two programs, and in substance their basic similarity.[50]

Rather than be misunderstood, may I reiterate this point. Academic and intellectual excellence is the pursuit of the highest goals of Higher Education. These goals at Harvard are commendable, just like they are enviable at many other institutions. But admission standards that keep out qualified men and women because of their race and ethnicity defeat the raison d'etre of Higher Education.[51] Admission Programs that bring more men and women of culturaly different and racially different backgrounds to a diversified student body do not simply comply with a set of Federal Guidelines that reward the institution with Federal Funds, they enhance their own intellectual and cultural institution with the interaction of faculty and students and the contributions which variety and diversity reward.

It is obvious that many Community Colleges, State Colleges, Vocational and Agricultural Colleges, and State Universities cannot emulate all of the Harvard Plan criteria. Many do not have an

affluent and well organized alumni, nor an outstanding endowment every year, nor a prestigious status and name. Many do not have an international student body, nor a culturally pluralistic body to choose from. Many do not have competitive faculty salaries, and many serve only the students of one community, city, or county. Most are accountable to the taxpayers or the legislature of their respective constituencies. Most satisfy the immediate needs of their Community and State. It is noble of Harvard to say that a farm boy from Idaho can contribute something that a boy from Boston cannot do. This may well be true, although Idaho is extremely limited in most of the resources which provide a broader humanistic outlook on life. But diversity for diversity's sake is not the answer. It is possible to reinforce prejudices and biases by inviting such prejudices and biases to attend Harvard. And they leave Harvard, like they leave many of our outstanding institutions, to occupy positions of authority, status, and prestige. We find them in Government, Higher Education, the Professions, Commerce and Industry. If this were not so, the amelioration of our human conflicts would not require Affirmative Action in Employment and Higher Education.

There must be a clear committment to both the spirit and the letter of the law concerning the Fourteenth Amendment, Title VI, and Affirmative Action. In order to understand remedies, it is necessary to understand causes, and without good faith and voluntary good will, any mandate will lack the moral persuasion which has always guided our democratic processes.

IV. Summary

In summary, Bakke has prevailed because the University of California Medical School at Davis excluded him from both its Regular and Special Admissions Program in 1972 and 1973, and even though he had higher scores than some Minority applicants, he was not allowed to ccmpete for their Affirmative Action seats. The two-track system of Davis with a numerical quota of sixteen seats for disadvantaged minorities was declared unconstitutional because it deprived Mr. Bakke of his rights under the Equal Protection Clause of the Fourteenth Amendment. The vote was five to four, and the majority prevailed on this issue.

However, concerning the issue of the use of Race and Ethnicity as valid criteria in the selection process, the High Court reversed the decision of the California Court, and validated the use of Race and Ethnicity in the selection process. The objections of the Court with regard to the Davis Plan were that Race and Ethnicity were the sole criteria rather than a criterion among others.

The Supreme Court validated the Harvard College Admissions Plan as a model for others to emulate. The quest for diversified student body, variety of the intellectual milieu, and the use of Race and Ethnicity in the selection process, are cited as commendable goals of a pluralistic criteria.

The United States Commission on Civil Rights is heartened with the Bakke decision. It is seen as a victory for the use of Race and Ethnicity in the selection process, and a recognition, albeit, a validation of the problems and remedies facing Affirmative Action

in both Employment and Higher Education.

Just as the Bakke decision will strengthen Affirmative Action[53] and Affirmative Admission Programs, it will also strengthen all categorical programs under Federal auspices. The Law is clear in the Bakke decision. The use of Race and Ethnicity in the selection process has been approved and certified. The development of pluralistic criteria that seek diversity with racial and ethnic conciousness is perfectly acceptable.

The basic principles of the Harvard College Admissions Program apply at many institutions. The search for diversity, variety, and the use of Racial and Ethnic considerations, have all been approved. However, some institutions do not have the same philosophy, resources, and conditions which prevail at Harvard, and their relationship with their constituents may dictate changes which adjust themselves to their particular situation. But the principles of fairness and openess in the processes which command the decisions and policies are inherrent in the Harvard Program, and these are what we must emulate in our own Program. The Bakke decision of the Supreme Court has opened the door to Affirmative Action and validated its reason for being. Good faith and voluntary good will are needed to implement its purposes.

1. Supreme Court of the United States, No. 76-811. Regents of the University of California, Petitioner, v. Allan Bakke. June 28, 1978. Text of Hon. Justice Powell.

2. Ibid., pp 18-19.

3. Affirmative Action in Employment in Higher Education, United States Commission on Civil Rights Publication, 1975, Washington, D.C.; Statement on Affirmative Action, No. 54, Publication of the United States Commission on Civil Rights, 1977, Washington, D.C.; Toward Equal Educational Opportunity: Affirmative Admissions Programs at Law and Medical Schools, June 1978, Publication of the United States Commission on Civil Rights, Washington, D.C.

4. The Chronicle of Higher Education, Vol XVI, No 17, July 3, 1978, p. 36, sub Mr. Carl Holman, President, National Urban Coalition. Also, p. 12 "Conflicting reactions to the Bakke Decision".

5. Ibid., p. 12. sub Arnold Forster, general counsel of the Anti-Defamation League of B'nai B'rith.

6. Text of Hon. Justice Powell, op. cit., pp 45-46.

7. Ibid., pp. 40-41.

8. Ibid., p. 51.

9. Ibid.

10. Ibid.

11. Text of Hon. Justice Blackmun, pp. 2-3.

12. Text of Hon. Justice Marshall. Justice Marshall presented an historical documentation concerning the plight of the Black Community in the United States and the many laws and litigation which concerned slavery and civil rights.

13. Op cit., p. 5.

14. Among these, Dred Scott v. Sandford, Slaughter-House Cases, United States v. Cruikshank, Plessy v. Ferguson, Brown v. Board of Education of Topeka, Morgan v. Virginia, Sweatt v. Painter, McLaurin v. Oklahoma State Regents, Swann v. Charlotte-Mecklenberg Board of Education, McDaniel v. Barresi, United Jewish Organizations v. Carey, Califano v. Webster, Califano v. Goldfarb, Lau v. Nichols, Pasadena City Board of Education v. Spangler, San Antonio Indep. School Dist. v. Rodriguez, Yick Wo v. Hopkins, DeFunis v. Odegaard, Hirabayashi v. United States, Hernandez v. Texas, et al.

15. Justice Powell, op cit., p. 5.

16. Ibid., p. 50.

17. Ibid., p. 15.

18. Ibid., p. 21.

19. Ibid., pp 23; 28.

20. Ibid., p. 27.

21. Ibid., p. 23.

22. Phi Delta Kappan, Jan., 1972, sub Guerra "Chicano Education..."

23. Op cit.

24. Op Cit., pp 28-29.

25. Op Cit., consult footnote 36, pp. 26-29.

26. Text of Justices Brennan, White, Marshall, Blackmun., p. 35.

27. Title VII Project Directors, and Administrators of Bilingual-Bicultural Programs, State Department of Education, along with the author, recount this extensive experience.

28. The point of view of "assimilation" adheres to the concept that culturally different Americans must lose their identity in order to become part of a larger national mold. The point of view of "acculturation" adheres to the concept that culturally different Americans do not have to lose their identity; on the contrary, they should keep their identity as Bilinguals and Biculturals when they join the mainstream of American life.

29. Justice Marshall evoked an unfortunate symbol of the "Melting Pot" in the text of his paper. It is often used as an antithesis of Cultural Pluralism, probably more compatible to what the Supreme Court Justice had in mind.

30. Consult footnote 3, "Toward Equal Educational Opportunity...".

31. Supreme Court of the United States, No. 72-6520. Kinney Kinmon Lau v. Alan H. Nichols et al, January 21, 1974.

32. Justice Powell, op. cit., Appendix, pp. 52-55.

33. Ibid., pp. 3-9.

34. Toward Equal Educational Opportunity: Affirmative Admissions Programs at Law and Medical Schools, June, 1978. p. 63. Some of these qualities are used as a criterion for admission.

35. Text Justice Powell, op cit., pp 14; 34; 35; 36.

36. Ibid., p. 13.

37. Op cit.

38. Op cit.

39. Op cit.

40. Consult footnote 32.

41. Text Justice Powell, op cit., p. 46

42. The Chronicle of Higher Education, Vol XVI, No. 18, July 10, 1978, p. 9., sub "The Harvard Admissions Plan...".

43. Ibid., p. 8.

44. Ibid.

45. Ibid, p. 9, sub "The Harvard Admissions Plan".

46. Text Justice Powell, op cit., pp. 46-49.

47. Ibid., p. 54.

48. Ibid., p. 6

49. Ibid., p. 43; 44.

50. Chronicle of Higher Education, op cit., July 10, 1978. p. 10.

51. Consult "Affirmative Action in Employment in Higher Education", op cit., p. 233.

52. Harvard College Admissions Program, consult Appendix, Text Justice Powell, op cit., pp. 52-55.

53. Six days after the Bakke decision, the Supreme Court let stand a lower court decision of Affirmative Action affecting 780,000 employees of American Telephone & Telegraph. It is interesting that this Affirmative Action Program had percentage hiring goals, or put a different way, numerical tables of Minority and Women hiring. Time, Vol 112, No. 3, July 17, 1978. p. 13

THE CASE FOR THE SPANISH SPEAKING

by Ricardo A. Callejo, Esq. San Francisco, Calif.

American history began long before the pilgrims arrived at Plymouth Rock. In the Southwest, Spaniards married or procreated with the Indians to give rise to a new union of the old and the new worlds. When the United States took over this territory from Mexico, the result was what Abraham Lincoln called an "unjust , unconstitutional and unnecessary war" ended by the Treaty of Guadalupe Hidalgo as ratified at Queretaro.

By this Treaty, Spanish was to continue to be a co-equal and co--official language with English in the Southwest forever, to wit: "The Mexicans . . . shall be incorporated into the Union . . . according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States . . . they shall be maintained and protected in the enjoyment of their liberty, property and civil rights now vested in them . . . With respect to political rights, their condition shall be on an equality with that of the inhabitants of the other territories of the United States . . ."

What were those Federal Constitution principles at the time of the Treaty of 1848? There was nothing then nor is there anything now in the United States Constitution which requires the rights guaranteed thereby to be fulfilled only in the English language. The 10th Amendment reserved to the States and their people powers not delegated to the Federal Government. California's first Constitution incorporated the Treaty of Queretaro (Art. 2, Sec. 1) and guaranteed all laws in Spanish and English (Art. 11, Sec. 21) so that the Treaty promise was reaffirmed according to Federal Constitutional principles.

California and the other parts of the Southwest (New Mexico, Arizona, Colorado, Texas) ramained bilingual and bicultural in fact and in law until

in the case of California, without a vote of the people as required by the State Constitution, Spanish was withdrawn as an official language of California in 1879 under circumstances of prejudice against the Chinese (see West's Annotated Codes-Election Laws-Gaylord).

This action was taken even though the 14th Amendment guaranteeing equal protection of the laws had been ratified in 1968 and the attempts of Southern states to nullify its effects through "Grandfather" clauses had been rejected by the Supreme Court as unconstitutional.

California further compounded its unsconstitutional behavior, again withouth the required vote of the people, in 1894 by making English the only language for registration to vote.

While all of the above was going on, in 1898, the United States, again in what Senator Fulbrith has described in his book The Arrogance of Power, as an unjust war, took over Cuba, Puerto Rico, Guam, the Phillipines from Spain and later, by act of Congress gave full citizenship to Puerto Ricans, retroactive to 1898.

It was not, however until 1966, that Puerto Ricans were allowed to vote in New York, in Spanish, when the Supreme Court upheld Sec. 4 (e) (2) of the Voting Rights Act of 1965 giving the right to vote to the Spanish speaking Puerto Ricans. (Katzenbach v. Morgan 384 U.S. 641.)

Today we see the cumulative effects of these violent takeovers and denials of Constitutionally guaranteed rights in the 1,000 miles of poverty streching across the Spanish speaking Southwest and in the urban ghettos of the Northeast and Midwest.

BROTHERS OF ESCOBEDO

The trial court conducted in English with only a court appointed interpreter is a mockery of the Constitutionally guaranteed rights of Spanish

speaking people to a fair trial. Is it any wonder that landmark Supreme Court decisions concerning the protection of defendants include many Spanish surnames, such as Miranda v. Arizona, which arose in the Southwest and Escobedo v. Illinois, which arose in an urban ghetto.

The usual situation involves a Spanish speaking defendant who, from the time of his arrest, has been denied every procedural and substantive due process of law --in reality-- while the appearance of due process is provided, making the denial all the more insidious.

There are no English literacy requirements for paying taxes, and Spanish speaking men are recruited for the Armed Forces in Spanish and are killed and wounded in Vietnam at more than twice the rate their population justifies.

Thus the spectacle of a Spanish speaking veteran and taxpayer being arrested without being advised of his right to counsel in Spanish; being informed of this right by an interpreter, if one is available, who may or may not speak Spanish; of having the English translation go into the record as the statement of the Spanish speaking defendant, when usually there is no one present who can certify that the interpreter is doing a good job in either language, coupled with the absence of counsel or only an English speaking counsel gives the appearance of a fair trial but in reality it is a police state inquisition which treats an individual as if he were an animal and not a man.

An Example of what can happen under such circumstances is given in The Innocents by Edward D. Radin (William Morrow & Co., Inc., 1964) . . . "Santos Rodriguez confessed to the murder of Mrs. Mildred Hosmer in Massachusetts. During his trial he claimed he had been beaten by police and held against a hot steam pipe . . .

In this case police denied the charge, and the district attorney's office, which investigated later, upheld the police. Officials said the confession had been due to a language barrier, that Rodriguez, a recent arrival from

Puerto Rico (part of the United States), knew little English and so thought he was being questioned about his relations with a young girl, which he admitted freely, and police thought he was admitting the murder of Mrs. Hosmer in a Springfield hotel.

Difficulties can occur when there is a language problem in questioning a suspect and the Rodriguez case is not unusual in this respect. It is here in fact, that police lay themselves to criticism; they often fail to call in an interpreter, except to assist at the actual confession, although it is obvious that a lack of proper communication can hamper an otherwise adequate investigation. Some three years after Rodriguez began serving an 18-20 year sentence the actual killer confessed. On April of 1958, the state legislature voted to pay Rodriguez $12, 500 for his false inprisonment." (Emphasis added.)

Today there should be at least one bilingual court at each level so that a bilingual record can be made and a Spanish speaking defendant assured of the reality of his Constitutionally guaranteed rights.

Translation and interpreters are no substitute for an on-going, continuous awareness of what is happening because it is happening in the Spanish language. In a bilingual/bicultural court, these proceedings could electronically or otherwise be put into the English language.

There is enough ambiguity in English without compounding it through translation.

On appeal the record would reflect what the defendant said in Spanish and the parallel meaning in English and not the potentially inaccurate interpretation of an interpreter who may or may not have stated the correct truth in English.

A bilingual court will not inhibit the reaction of the defendant as is the case under the present system. The bilingual system is in use in the Inter-

national Court of Justice and in many other court systems, including the European Common Market, the Soviet Union, Switzerland, Holland, Canada, Israel, and many others. The United Nations is yet another example of the mutual respect, understanding and otherwise unattainable justice which can arise from proper use of a bilingual system.

The plight of the Spanish speaking and the advantages of bilingual courts must also be viewed in the light of the problems that these advances must bring. Humanitarian democracy is difficult to sustain. Some of the objections are based upon expediency. Isn't English good enough for every one? Isn't it the language of the United States? If we have bilingual courts for the Spanish speaking, why not for a hundred other languages? The answer to these questions depend upon whether you want humanitarian democracy and in what form.

I shall assume that we intend to fulfill the promise of the Constitution for as many people as we can as soon as possible. Further I will assume that the end is justice through law as it operates at its most crucial level in the Criminal Trial Court.

English is not good enough for everyone. In fact English is one of the most, if not the most, difficult language to learn and use efficiently. It is not phonetic (the writing differs greatly from the spoken word), it is highly ambiguous stocked with over 600,000 words and confusing when superimposed upon a nation of immigrants with many cultural backgrounds which English is ill suited to express.

English is only one of the languages in the United States - Indian, Spanish, French (in Louisiana), Russian (in Alaska ans Northern California), Chinese, Japanese and the other, later, immigrant languages, being others. Basic differences must be noted, however. Where a people were taken over by conquest, as in the case of the Indian and Spanish, or bought out as a last resort as with the French and Russians the language has remained and so

has the culture, thought to be destroyable by ruthless means.

The number of people involved, aided by constitutional guarantees not applicable to immigrants, except in principle, lend force to the right of some languages and cultures to be given priority based upon the accumulation of unjustified abuse.

The answer for the trial court must be that some day, with the help of electronic devises, we shall indeed use any language the defendant prefers as his means of communication to obtain his Constitutionally guaranteed rights. For the time being, living as we do in a society that only reacts to violence and too slowly if at all to reason, we must address ourselves to bring justice to as many as possible at the lowest possible cost and to those who have waited the longest and have the most pressing problems. The Spanish speaking fit all of these criteria.

The reality is that you can not ask people to give up what they are in order to become what you think they ought to be. If freedom has any meaning it is precisely that a man has a right, consistent with the rights of others, to be himself. Witness the Amish of Pennsylvania and Iowa, the Cajuns of Lousiana and the many other examples of linguistic and cultural integrity.

The day of the bilingual/bicultural court should greatly enhance the future of America and of democratic institutions by bringing at last the reality of justice to the poor and downtrodden instead of the appearance of it that is killing them and this society as no other factor in American life. The time for action was yesterday, but, as we say in Spanish-there is no worst battle than the battle that isn't fought.

THE FUTURE NEEDS OF CHICANO STUDIES DEPARTMENTS

Dr. Joe Rodriguez

June 1978

Department of Mexican-American Studies

San Diego State University

SAN DIEGO STATE UNIVERSITY

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Before we talk about the future needs of Chicano Studies Departments, we have to take a close look at what is happening to colleges right now. Throughout the United States, universities have their backs against the wall. Fewer students are enrolling, money is scarce and the future looks gloomy.

The reasons why colleges are having to cut back their budgets and reduce expenditures are complex matters. But for Chicano Studies Departments, understanding why universities are having problems takes a second place to comprehending what is happening to us. The plain fact is that many Chicano Studies Departments are being undermined, sold-out and left to wither and die.

Let me use my own department at San Diego State University as an example of how a Chicano Studies Department can be undermined. In the recent past, SDSU restructured its curriculum. Courses were arranged in different packages; some classes were added and others were dropped. The results of this rearranging were disastrous for us. Chicano Studies classes that used to fulfill basic subject requirements necessary for graduation were deleted. Our department was shoved aside and our enrollment has suffered. In turn, our lower enrollments have been used to justify cutting faculty positions. You can see how a spiral effect is created that means only bad news for us.

The Chicano Studies Department at SDSU clearly shows what can happen to Chicano Studies programs anywhere. One of the first needs for Chicano Studies Departments is to recognize that colleges are facing a financial crisis. Then, we need to act together to insure our survival.

When I say that we must act together to insure our survival. I am not using words idly. Elihu Carranza wrote a very interesting essay entitled The Death of Chicano Studies. This essay lists the reasons that traditional academicians use to justify doing away with Chicano Studies. Number one: Chicano Studies is a fad and needs "community support" to survive. Number two: Chicano Studies is a forum for political activism not scholarship. Number three: Chicano Studies is a community service center, not an academic department. And finally, number four: Chicano Studies is not a genuine academic option for students.

You will notice that each one of these attacks against Chicano Studies calls our academic purpose into question. Now imagine that the people who are raising these objections are worried about their own academic careers. They see that the numbers of students are dropping and that money is tight. What department will such traditional academicians sacrifice to keep their own jobs.

But there is one important fact that we have to keep in mind. In the coming decade, Chicanos will constitute a significant part of the population in California and the Southwest of the United States. Our time is coming. Chicano Studies Departments offer a coherent and unified discipline in which we can speak our minds.

I want to stress the fact that Chicano Studies gives all of us a voice in the intellectual marketplace. Many disciplines are brought together in a Chicano Studies Department but our focus is clear. We are taking account of our place in society in historical, psychological and sociological terms. Why should we have to continually justify looking at ourselves and analyzing where we fit in this culture when universities ignored us until we raised our voices only a few years ago.

Many traditional academicians would like to put Chicano Studies Departments on the defensive. They want us to scurry around justifying our existence while they cut back our programs. But don't let these old-fashioned scholars fool you. The truth is that they realize that our courses are worthwhile; what they want is to teach these classes themselves. History departments, for example, might argue that since history is their speciality, they can teach a course in Chicano history better. Sociologists might argue that studying Chicanos is done more effectively in a department devoted to inter-group relationships.

Different departments recognize the value of Chicano Studies classes, but they want to handle these courses themselves. Let Chicano Studies wither and die is their attitude. Different departments can do what Chicano Studies does.

Well, this kind of reasoning ignores the fact that we are a distinct group with distinct concerns. Dismembering us and passing us around for scrutiny is cold-blooded murder. Any one of us can tell you that being Chicano involves looking at experience in unique ways that bring together different thoughts and feelings. Chicano Studies looks at us in terms of a whole and then uses different disciplines to define who we are and then addresses our needs. A history department, a sociology department and a

philosophy department cannot put together a Chicano. Besides, a few years ago many of these same departments were denying that there were Chicanos, or that they were worth talking about.

A Chicano Studies Department is the natural setting to discuss issues that cut across demarcated academic specialties. For example, discussing stereotypes involves all kinds of data about the relationship between ethnic groups. Stereotypes about Chicanos can be defined very precisely and then different disciplines can be used to define what happens when they are employed. Once again my point is that Chicano Studies looks at whole people and then raises questions about real behavior. It is wholistic rather than reductionistic because the discipline looks at the lives of people not just disparate packets of data. There is no question that if our courses are co-opted, we will cease to have a voice in the intellectual marketplace. We must recognize that a crisis in colleges exists and we must work together to insure our own survival.

What exactly can Chicano Studies Departments do to better our chances of survival. My following suggestions are not listed in order of importance. They are all equally important and Chicano Studies Departments must act upon them in a concerted fashion. First, Chicano Studies Departments must once again articulate their academic direction in such clear terms that we blunt attacks from entrenched academicians. Secondly, we must strengthen our comparative emphases so that what we do is of interest to many different groups of people. And thirdly, we must work actively to increase the enrollment of Chicano students.

I have already mentioned that Chicano Studies Departments focus upon an ethnic group that has long been ignored in academia. Our approach is wholistic and single-minded. Dividing our courses among various departments will diffuse attention paid to us and it will leave us without a strong voice in the intellectual marketplace. How do we redefine our academic direction and once again clarify the value of what we do?

To point out what Chicano Studies Departments are doing right now, we need to take a brief look at the history of Chicano Studies. The 1960's was a time of self-discovery and self-assertion. New ground was broken in several areas. Many Chicano Studies Departments were founded and they began looking at the vigorous culture of La Raza in this country. We began to look back at our roots and found that our origins had been largely overlooked or ignored. We began identifying our voice in the arts. New poets and novelists spoke up and told about our experience in this society. Sociologists and psychologists began to take stock of us as a unique group with special features and needs.

The 1970's is a different time altogether than the 1960's. This decade has been an era of economic uncertainty; therefore, people seem more concerned about finding a job and fitting into society. The watchword of the 70's is accountability. Because of the depressed economic situation in this country, people want to make sure that everything is productive and in order.

One of the best ways that Chicano Studies Departments can prove their value is by pointing out how the issues that they have raised continue to be of concern to everyone. Chicano Studies Departments ask what is the reality of becoming part of American society. We have shown quite clearly that the melting pot myth does not work to our advantage. We have been told that we should become Anglo-Saxon Protestants to be accepted, but that premise is a cruel joke.

One question that we pose to American society is what model of a society do we want to encourage. Do we want a melting pot, or do we want a pluralistic society where people from different backgrounds can take advantage of their heritage? The myth of the melting pot has, in my opinion, fostered the mentality of the "ugly American". We expect all countries to be like us and we are appalled when people do things differently.

If Chicano Studies Departments are to have a future, we have to publicize our new scholarship. I am sure that everyone is aware of new work being done in our field. But in the 70's public relations has everything to do with the success of any enterprise. Let me discuss some new work that I know of myself. A colleague of mine in Chicano Studies, a historian by training, is looking at history in a new and exciting way. We know from experience that many traditional historians talk about great figures in history or historical theories that supposedly account for the drift of human affairs. Talking about great men in American history or developing theories about what shaped the past is far removed from our lives. What my colleague is doing is recreating the actual day-to-day conditions of life in early Los Angeles. By looking at how people lived in this period, we have a real picture of not only ourselves but we see the kinds of events that influenced the past.

In addition to restating our academic concerns and publicizing new scholarship, Chicano Studies Departments must also strengthen our comparative emphasis so that what we do in Chicano Studies is important to different groups of people. We know that Puerto-Riquenos and Cubanos share many concerns with us. We need to talk about those aspects of American life that have influenced all of us. For example, moving to large cities has affected the lives of many Latino groups. Trying to preserve distinct life-styles and customs in a new environment has brought unique problems. By addressing such matters, we encourage a dialogue with those who find themselves in a similar position in this society.

Furthermore, Chicano Studies Departments must continue and broaden our dialogue with other Ethnic Studies Departments. Blacks and Native Americans share much in common with Chicanos; these departments can help us brainstorm and clarify ideas. I think that it is much easier to test ideas and pursue questions about ethnicity with other departments who know about these matters at first hand.

Furthering a comparative emphasis will also make the connection between Chicanos and other Americans more clear. Many traditional scholars who study American literature have ignored the Chicano novel. According to these pedants, the works of Hawthorne, Twain and Steinbeck are not only different than those of Villareal and Zeta Acosta, they are better. My own point of view as a literary scholar has been quite different. I am looking at the kinds of themes that Chicano novels and traditional "American" novels share in common. Then, I am asking what these shared interests say about the life of this country. This kind of inquiry challenges the notion that Chicano culture has nothing to do with American society. It rejects the idea that Chicano novels are "inferior" to standard American novels.

Chicano Studies Departments must continue to raise hard questions about what defines a multicultural or pluralistic society. As I have said, we have looked hard at the myth of the melting pot and rejected the demands that we become like everyone else. Because of our perspective, we must continue to develop closer ties with Mexico and Latin America. These countries are racially mixed and many of their interests have to do with our own. Chicano Studies Departments have already realized that our interests do not stop at the border.

I feel strongly that Chicano Studies Departments must continue to strongly advocate bilingual/bicultural education. We have pointed out the unfairness of I.Q. tests and tracking again and again. Because money is now scarce, many educators are backing away from the concept of alternative education. Once again, there is a strong push to frame schooling in terms of assimilation. For us, assimilation means being pushed to the back of the class and the employment line. People aren't willing to spend enough money to educate their own children properly. Why should we place our future in their hands?

Finally, Chicano Studies Departments must actively recruit students, we have been told repeatedly how badly under-represented we are in higher education. We need electricians, plumbers and mechanics; but, right now, we need college-trained Chicanos who can assume positions of power in government, business and other fields even more.

We must remember that this country is the land of the marketplace. Ideas are as much a commodity as anything else here. We need many more people who can speak up clearly and command attention. One of the ways we can be heard is if we reach out for students and encourage them to remember who they are.

Recruiting efforts must be stepped up at every grade level. Many Chicanos do not even consider college in their career plans. There are a number of reasons that could account for this waste of talent. But there is really only one immediate solution. Chicano Studies Departments must speak for themselves at all grade levels.

In conclusion, the future needs of Chicano Studies Departments can be defined in at least three areas: Academic direction, comparative emphases and student recruitment. We must recognize that the financial crisis that is affecting colleges is jeopardizing the very existence of our programs. All of us must take account of what is happening and contribute ideas and suggestions about how to survive. We cannot afford to remain silent in such ominous times. There is the very real possibility that if we do not act quickly, there may be few of us left to do anything at all.

TEACHER TRAINING IN INSTITUTIONS OF HIGHER LEARNING: ARE THE TRAINERS PREPARED?

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During the last decade, educators in institutions of higher education, and training personnel responsible for the preparation of bilingual teachers have had to face increasing demands from researchers, practioners and community leaders to train personnel who can effectively serve non and limited English speaking students.

In fact, the need extends to the preparation of teachers who must work with minority students, i.e. those of low socio-economic families, the disadvantaged, the handicapped, and the linguistically and culturally different.

Through the staff development component of various federal and state sponsored programs, the practitioners in our public schools began to receive a great deal of training specifically geared to the needs of the students described. The fact is, nowever, that it is difficult to "unlearn," to give up all habits and replace them with new ones. For this reason, the pre-services and in-services offered to teachers (and this mainly at the elementary school level) do not always reap the benefits expected.

What is most significant is that the need for a different type of training for teachers is not new. Since the turn of the century, statistical data pointed out to the inability of schools to serve minority students. It was not until 1958, however, when Congress passed the Elementary and Secondary Education Act (appropriating funds for compensatory Education) that local education agencies began to consider new approaches to educate our minorities.

When Compensatory education became a reality, the minority most considered was the black. The agitation caused by Malcolm X and the stern pressure exhorted by Martin Luther King and many other black leaders highly contributed to the awakening of Congress, our system of education and the advent of the ESEA.

The influx of the Cubans, the growing demands of the Puerto Rican, and the efforts of Chicano veterans to help children learn English plus the much publicized success of the army language schools, brought to our schools the teaching of English as a Second Language. (ESL)

During the 50's the experiences gained in the Second World War by the Chicanos and other minorities and the efforts by the young to strive for independence of the mind during the 60's was reflected in the students involvement and the reaction of the youth against education in American schools and universities.

The efforts of the Chicano G.I.'s, the brown students' movements and distressing statistics which demonstrated in that decade that approximately 50% of the Spanish surname students did not achieve ninth grade, worked as a catalyst to make some educators and politicians realize that a response to the pluralistic society of the U. S. needed to be reflected in its total education system. For the non and limited English speaker, Bilingual Education came into being.

Certainly Bilingual Education is not anything new. In the United States from the time of the first colonization by the Spaniards in the missions of the Southwest, the Indians of America were learning to speak Spanish; in the north-eastern coast the colonizers were establishing schools where latin was a requirement for anyone wanting to read the "good book." When California became a state many of the Catholic Schools became state supported. Their

students were of Spanish descent and were taught in the Spanish language. In New Mexico as late as 1884 a school law was passed permitting elementary schools to teach in either English or Spanish or both, "as the directors may determine." [1]

However, as the various territories and colonies developed a program of unification, and the political notion of the melting pot began to take hold, new attitudes developed towards a nationalistic isolationist policy in the U.S. It became the contention of the highest officials that unity could be best accomplished by establishing a common language and a common culture. Furthermore, knowledge of a second language ceased to be a need and instead became a luxury for the elitist. As a result, the language learned often was chosen based on political implications. For example, during the First World War German was dropped from many high schools because it was the language of the enemy. Spanish spoken by Mexicans became a low class language and in 1958 Russian gained status as the language needed to be known by the scientists.

By 1965, political pressures brought about by politicans, educators and community-minded individuals resulted in a Bilingual Education Act. Under this authorization, appropriations of funds were allowed to teach children in their native language while they were developing skills in English as a second language.

Thus the U. S. has joined the hundreds of countries now engaged in providing bilingual Education. But while these countries and many more to come will engage in Bilingual Education due to political democratization and economic development, the U. S. Government has adopted Bilingual Education in an effort to assimilate the non and limited English speaking students into the mainstream of American Society. As Vera P. John says:

> "While the recognition that schools have transitionally failed children from non English and poor communities is widespread, the solutions which have been offered for a different future vary considerably. The most frequently suggested approach is the development of transitional bilingual programs, aimed at minimizing cultural and linguistic differences between the mainstream and the minority child, thus facilitating his/her integration and assimilation into the dominant culture in the fastest and most effective manner." [2]

This was not the purpose of those who led the Revolutionary Bilingual Education movement. They advocated an educational program where English would be taught, of course, but not at the expense of the students losing their first language and cultural strengths.

In the meantime, the struggle of the youth to improve education continued. Their biggest complaint was that education as presented in the public schools totally ignored the individual. As a result, authors and educators such as Bloom, Meager, Maslow, and others, began to exert pressure on academicians to consider the three basic domains in learning, the need to present the curriculum through measurable and well defined objectives, to individualize instruction, and to provide training in subject matter through students' interests and learning styles. Confluent education became part of the researchers lingo and cultural democracy, Bilingual Education and cultural pluralism began to be considered the replacements for the melting pot.

Researchers and educators began a critical examination of education philosophy in the United states. Castañeda and Ramírez, for example, discovered that the American public schools had developed and marketed a very one-sided history of the American people. A child in school is often taught the first colonizers of the United States were those who arrived from England, totally

ignoring the fact that long before their arrival the Spaniards had established many settlements in the Southwest, had brought religion and their own type of aculturation to the Indians. Nor has it been recognized the high value of having been a Mexican subject which allowed Austin to establish the first English-speaking settlements in Texas. Many contributions by Mexican-Americans, Asian-Americans, blacks, and manh other groups, have been distorted or totally ignored by public schools. In fact, school teachers have made it their personal and professional responsibility to make children minorities conform to the American way. Although their purpose is altruistic, nevertheless, it has caused a great deal of harm among children who suddenly are led to see their cultural traits as undesirable or unacceptable by the mainstream of society.[3]

Castañeda and Ramírez, in 1974, explored the issues concerning the responsibilities of public education to the Mexican-American child. In their search, they scrutinized the philosophy of education in the U. S.; they came to the conclusion that Bilingual Education is not in conflict with American Educational Philosophers. In fact, education in the American tradition insures the right of each individual to pursue happiness. They discovered, however, that the American public had given to the public schools many of the responsibilities for socializing children which at one time had been the responsibility of the home. In the Mexican-American family, many of these responsibilities have not been relinquished. As a result, the children from these families upon entering the American schools, experience a tremendous shock, a sense of rejection, and a total loss of self-esteem for themselves, their language and their cultural values.[4]

According to George Blanco, the consensus of most writers indicates that

> "the primary thrust of Bilingual Education lies within the cognitive and effective domains rather than the linguistics realm. That is, the main purpose of Bilingual Education is not to teach language per se."[5]

The thrust of Bilingual Education Title VII, however, from its inception and including the two ammendments (that of 1972 and of 1978), continues to stress mainly proficiency in English as the goal; similarly, the Lau versus Nichols Court Decision dealing with the education opportunities of Chinese children in San Francisco also calls for the implementation of a transitional bilingual model. Although, an accepted definition of Bilingual Education in this country is the one set forth by the U. S. Office of Education in which it states that "a complete bilingual program develops and maintains the children's self-esteem and legitimate pride in his culture"[6] nor the Lau versus Nichols Court Decision or the Bilingual Education Act truly reflects the cultural goals of Bilingual Education.

Yet the goals of Bilingual Education are comparable with those of general education. As expressed by Dewey,[7] the school must meet the needs of the individual; education must be based on the intensive activities and needs of the person to be educated.

There is a great need in our philosophy of education and in the training of teachers to recognize and respect the language, cultural, and ethnic diversity of many groups and to implement a cultural democracy where the rights of every American student to remain identified with his own home and community is accepted. This personal interest and relevance immediately brings forth an affective dimension. Yet, our educational systems ignoring this dimension has,

knowingly or unknowingly promulgated the feelings of failure, low self-esteem, and self-depreciation among our youngsters; and the educators appear to be unable to alleviate the situation, or more important yet to bring about change.

We must realize, however, that we have the greatest opportunity to ameliorate the harmful effects of our present system of education on the minority child. We, as professors, have the opportunity to influence the thinking and the feelings of our present and future teachers. We can implement in our classes an approach to education where thinking is accompanied by feeling. The aspect of what a student feels can be integrated with what she/he knows or needs to know. We can even influence the development of a curriculum based on knowledge and human experiences. Of course, when we speak of change we are often reminded by administrators that changing the "status quo" has great economical implications. In this case. the argument does not hold. Title VII of the Elementary and Secondary Education Act (as well as many other federal and state funded programs) provides funds for training of personnel such as teachers, administrators, para-professionals, etc. and particularly for "encouraging reform, innovation, and improvement of graduate education."

Some efforts have been made to improve the training of teachers who are to serve NES/LES students. The Bilingual Bicultural Education Section of the California State Department of Education established a committee in 1977 to develop the criteria for bilingual teachers competencies; they were designed to accurately appraise the quality of training given to bilingual teachers by institutions of higher education and other teacher training agencies in California. Five competency areas were included asfollows: Language proficiency, social cultural and historical, psycho personal, applied linguistics and pedagogy.[8]

Let us now consider some of these areas and see how they affect the preparation of the college professors who assist in the development and training of bilingual-bicultural teachers. There are those who advocate that the basic knowledge of professors in bilingual programs must be based on their ability to teach their subject matter in the X language chosen. Bruce Gaarder, for example, proposes the establishment at the university level of a department or center with all of his faculty in activities to itself, with the teaching staff highly literate in the non-English language chosen, and fully capable of using it as the exclusive medium of instruction in the classes. He considers these qualifications not to be the most important but to be the minimal and lowest requisite without which the more important ones have no meaning whatsoever in terms of Bilingual Education.[9] This requires the development and/or expansion of the professor's knowledge of language, not at all difficult to acquire since it is cognitive in nature. Therefore, I agree with Dr. Gaarder that the knowledge of language may be a basic qualification. I must emphasize, however, that the most important qualification is the ability of the professor at the college level to provide to the teacher and the student-teacher an <u>environment</u> that is truly supportive of them as well as of the linguistic and cultural background of the children they will be teaching. Therefore, I propose that the educators and trainers of teachers who are given the task of preparing the school teachers of today and tomorrow must be given the opportunity to explore means to offer students a program based on at least <u>confluent education</u>. Through the consideration of this approach we will be including all the areas of competencies developed by the Cal State Department of Education Bilingual-Bicultural Section which were language proficiency,

social cultural and historical, psycho-personal, applied linguistics and pedagogy.

Anthony Sancho in an article titled "Culture in the Bilingual-Bicultural Curriculum" states:

> "Bilingual-bicultural education can provide a successful alternative to students of diverse cultural and linguistic backgrounds, but educators have not yet tapped all the potentials that such a program can offer. It is a fact that language cannot be separated from the culture but neither can culture be separated from education for it is through his cultural background and experiences that a student perceives himself, his school, his teachers, his home and what education has to offer him."[10]

Yet, most teacher-training programs have often ignored the fact that the learner cannot separate his intellectual experience from his emotional experiences. This "indestructibly symbiotic" relationship between thinking and feeling is best exemplified when working with the linguistically and culturally different person.

It is a known fact that in bilingual-bicultural classes where the range of basic knowledge of the studetns is doubled by the range of differences in knowledge of at least two languages individualized instruction is a must. It is also a fact that several modes of instruction may have to be employed in order to facilitate the learning of students who come from different linguistic and cultural backgrounds. Furthermore, when we speak of bicultural education even though we are addressing aspects of the cognitive domain, (students need to know historical social and cultural facts) we are also including and even emphasizing the total inclusion of the affective domain.

This is a new approach to which our educational system is not accustomed.

The emphasis has always been on the acquisition of knowledge and the thinking process all totally divorced from the affective domain. That is the way most teachers are taught at the universities and colleges and that is the way most of them teach in our schools.

Bilingual-Bicultural education requires this rather new approach to the preparation of teachers, one which very few of us as educators have had the opportunity to implement in our classes. This presents a great challenge to higher education and particularly to the trainers of teachers. Are they prepared to face this challenge? We are confronting a value question that must be considered by assembling facts, assessing the truth of these facts, clarifying the relevance of the facts, and arriving at a tentative value decision. Although this question may be viewed from various perspectives, we will address it from the point of view of education.

Let us begin by defining our terms. The verb "to train" is definedin Webster's dictionary, "to render skillful, proficient and qualified. systematic instruction." In fact, the dictionary indicates that to train is synonymous of to teach, and training is synonymous of education. Our consideration here, therefore, is all educators including those in the institutions of higher education who have the responsibility of assisting our teachers and student-teachers to become the educational leaders. Although most of what follows may be applicable to educators in general we will consider in this paper the college professor who difectly or indirectly come in contact with those that are preparing themselves to become educators and implementors of bilingual-bicultural education in our schools.

The scrutiny of the existant literature on the training of college professors has left us with a number of facts. In reviewing the very abundant available literature, for example, from 1969 to 1977 which was the latest publication located on the subject of the training of college professors [11] and their influence on the students,[12] it was discovered that a number of studies have been conducted. It is evident that in addition to a great deal of literature based on perhaps some value judgements, there is empirical data to demonstrate that the college professor does not receive training to demonstrate methods for the training of students.

Now let us go back and look at our definition of "to train." It was "to render skillful, proficient, and qualified systematic instruction." The words "proficient" and "qualified" address themselves to the knowledge and the competency that professors have in the subject matter; "skillful" addresses itself to the knowledge of how to do our tasks, while "systematic" addresses itself to the characteristics of method and organization. Professors who are training teachers and student-teachers to instruct bilingual children--children that come from a diversity of linguistic and cultural backgrounds--often have not had the opportunity to develop the skills and the methods necessary to accomplish their task. They may be very well versed in their subject and capable of achieving measurable objectives in demonstrating their knowledge of that subject. Yet, many have not experienced the life style of the linguistic and culturally different. They may be, again, very knowledgable, but "would not be caught dead with a single one of them." Furthermore, pedagogy has not been part of their preparation; this even though they are in a classroom teaching and often training teachers and teachers to be.

In sum, we may conclude that a vast number of our college professors may meet the proficiency and qualifications required to teach their subject matter; in addtion, they may need to develop skills to humanize the curriculum, and implement confluent education by actually experiencing what they teach.

The educational system implemented in the institutions of higher education is constantly given to or demanding responsibility from the student; but seldon to take responsibility for themselves. This lack of responsibility is easily noticeable in a very common phrase utilized by students; when the grade of A is received the student says, "I got an A"; when the grade of a D or an F is received the student says, "he (or she) gave me a D (or an F)." By allowing students to take responsibility fortheir behavior, we are in fact providing experiences that will make students in the long run become free, free from being overcome or hurt by prejudices, free from becoming judgmental, free from the concern of fear and guilt. This of course must be exemplified by the professors. It means then that they themselves must become totally responsibile for the creation of a classroom environment based on honesty and trust.

For example, to facilitate students to become responsible for their learning the professor must be willing to accept the thinking of students, and to actually become self-aware of the inner reactions experienced when that thinking is in total discourse with her/his own. The process by which acceptance is finally achieved must be shared with the students. A similar situation may arise in considering acceptance of the culturally or linguistically different student.

Much too often teachers expect students to be responsible and yet they are constantly taking over their students' responsibilities or they are not capable of demonstrating how they themselves are responsible to their students. By developing an environment of trust and honesty and by assisting students to develop ability to take responsibility, professors will be able to exemplify a viable method which when implemented in a bilingual-bicultural classroom will assist in eliminating fears and judgments. In addition, by this many discipline problems can by drastically reduced.

What is being presented here is no panacea; we have barely scratched the surface of what can be done; we are simply proposing a beginning based on our successful experiences with bilingual-bicultural programs. Anthony Sancho has pointed out that:

> "A bilingual-bicultural classroom represents American Society as it really exists today--a diversified mixture of experiences, cultures, languages, view points and motives for success. Educators should realize that students today are oriented to the present, the here and now world; and for each student this contemporary world is conceptualized through his cultural background, historical base, and social experiences, which in turn formulate his responses to life." [13]

In order to humanize the curriculum, we need to bring into it the "here and now world" of the students and to incorporate into it their own social experiences. The cognitive domains may be used as a point of departure to exemplify this, by taking the language differences among dominant speakers of a particular language let's say between those born in this country and those born in the countries where the ex-language is the national and/or native language. The professor can develop a play on words based on these differences. Through a humoristic approach, students then may be asked to work in groups and to develop games

utilizing those linguistic differences from the various groups. They may accomplish this through role-play or through staging simulations, etc. Or, to demonstrate the origin of those language differences some students may be given the opportunity to review various samples of literature dating from the 18th and 19th century for the purpose of locating language similarities between the content of those books and the present speech of some Spanish speaking groups of the Southwest. It is a known fact that some of the greatest writers of Spanish literature such as Santa Teresa de Jesus, Bernal Diaz del Castillo, and even Cervantes have reflected in their writings the speech of their day which in some cases are synonymous with some of the terminology still used today by Spanish speakers in the Southwest.

Many students arrive at our universities knowing a second language. They may pass the test that demonstrates that they are proficient in speaking, reading, and writing. Much too often, however, although the teacher arrives to the classroom totally capable of carrying on conversations applicable to the kitchen and the living-room they are unable to provide instruction in math, science, music, social studies, etc. in the language of the particular child. It is our belief that the college professor must provide our teachers actual experiences by teaching the language, by actually demonstrating the methods to be employed in individualizing instruction in the classroom, and by assisting our student-teachers and teachers to write in the language other than English. The writing should include lesson plans and other classroom-geared activities such as letters to parents, school announcements, descriptions of classroom activities, etc. The teachers then will be prepared to actually function as bilingual-bicultural teachers.

Lastly, much too often teachers are asked to individualize instruction. In most cases they are knowledgeable of what individualized instruction means; seldom, however, does the teacher have experience in diagnosing the language proficiency of a student, or interpreting the results of a CTBS or actually demonstrating total comprehension between concepts and development of skills. Without this knowledge, individualized instruction in a classroom often turns out to be small groups of children doing the same thing at different times. I truly believe that college professors who implement in their own classrooms individualized instruction will provide in this manner the best avenue for teachers and student-teachers to comprehend the mechanics of individualization and its effectiveness in the classroom.

In conclusion, bilingual education became a reality as a result of political pressures brought about by politicians, educators and community-minded individuals, who were able to erase in thousands of districts the requirement that English be the only language spoken in the schools, and to bring about the concept that a complete bilingual program develops and maintains the childrens' self-esteem and legitimate pride in his culture. Their efforts and those of the students of the 60's have left us the opportunity now to institutionalize bilingual education. The training of teachers and student-teachers who are to serve the linguistically and culturally different is in the hands of the colleges and universities. Institutionalization of bilingual-bicultural education requires change. Change can only be brought by the College professors and their students--the teachers who highly influence the youngsters' lives, actions, knowledge, and sense of values.

The trainers of teachers are the shapers of our public education; the train-

ing of students is accomplished in their own image. For them to refuse to take responsibility themselves and for what they do is an illusion. Rationalization and false alternatives, will only keep our educational system and them stuck where they are. If we, as minorities, have learned well the lesson of denial, of distortion, of repression of genuine feeling, to the point that we want to make certain that our children do not have to experience the same lesson, then let us become cognizant of the fact that the integration of affective learning and cognitive learning will benefit our children. Higher education and college professors have an opportunity to make a high contribution to the system of American Education, and it can be done without seeking the authorization of the policy-makers. They can bring about a true change, a change that could mean the difference between a sick society and a healthy society. In fact, we have now arrived at a date sufficient to allow us to proceed with true education and to dispense with affixation upon conformity. As educators, fully committed to the education of the individual, let us innovate, let us experiment, let us demonstrate, the true contribution that we can make to American Education today.

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BIBLIOGRAFY

1.- Leibowitz, Arnold H. Educational Policy and Political Acceptance: The Imposition of English as the Language of Instruction in American Schools. Washington, D.c.: ERIC Clearing--house for Linguistics, 1971. , pg. 51-2.

2.- John Vera P., "Educational Perspectives on Bilingual Educa--tion" Frontiers of Bilingual Education , Bernard Spolsky Robert Cooper; , NEWBURY HOUSE PUBLISHERS, Inc.; 1969; pg. 176.

3.- Alfredo Castañeda, Ph. D. {t all.'; New Approaches to Bilingual, Bicultural Education; The dissemination Center for Bilingual Bicultural Education ; 1974; .

4.- Ibid.

5.- Blanco., George; "The Implementation of Bilingual/Bicultu--ral Education Programs in the United States"; Case Studies in Bilingual Education; Bernard Spolsky, Robert L. Cooper, Newbury House Publishers; Inc.; 1969; pg. 454.

6.- United States Office of Education, 1971; Programs under Bilingual Education Act: Manual for Project Applicants and Grantees; 1971, Wash D.C. Government Printing Office.

7.- Dewey, John; Nationalizing Education ; National Education Association of the United States Addresses and Proceeding of the Fifty-Fourth Annual Meeting.

8.- California States Department of Education; Criteria for Bi--lingual Teacher Competencies ; July, 1977.

9.- Sancho, Anthony; "Culture in the Bilingual-Bicultural Curriculum; Nabe ; Servicios Editoriales y de Empresa, S. A.; 1976; pg. 55.

10.- Man, Richard D. {t all; The College Classroom, Conflict Change and Learny; J. Wiley and Sons Inc., N. Y., 1970.

11.- Feldman, Kenneth A.; The Impact of College on Students; Newcomb, Theodore M.; Jossey-Bass Publishers; 1973.

12.- A. Bruce Gaarder; Bilingual Schooling and the Survival of Spanish in the United States; Wendy Doherty, Newbury House Publishers, Inc.; 1969.

13.- Brown, George Isaac; Human Teaching for Human Learning: an introduction to Confluent Education; "Introduction and Rationale"; Viking Compass Edition, New York; 1971; pg. 3.

14.- Jakobovits, Leon A.; "The Encounter-Communication Workshop for Language Teachers"; Teaching the Bilingual; Frank Pialorsi; The University of Arizona Press; 1974; pg. 25.

15.- Forbes, Jack D.; "The Mandate for an Innovative Educa--tional Response to Cultural Diversity"; Teaching Multicultural Populations; James C. Stone, Donald P. DeNevi, Van Nostrand Reinhold Company; 1971; pg. 5.